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NOMINATIONS—JULY-AUGUST

HEARINGS

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

JULY 11, 1985

DENNIS PATRICK, TO BE A COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION

JULY 17, 1985

REBECCA GERNHARDT RANGE, TO BE ASSISTANT SECRETARY OF TRANSPORTATION FOR GOVERNMENTAL AFFAIRS; AND JENNIFER ANN HILLINGS, TO BE ASSISTANT SECRETARY OF TRANSPORTATION FOR PUBLIC AFFAIRS, DEPARTMENT OF TRANSPORTATION

AUGUST 1, 1985

ANTHONY J. CALIO, TO BE ADMINISTRATOR, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

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DENNIS PATRICK, TO BE A COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION

THURSDAY, JULY 11, 1985

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 9:03 a.m., in room EF-100, the Capitol, Hon. Barry Goldwater presiding.

Staff members assigned to this hearing: Macky Ayers, Dale Brown, professional staff members; and Tom Cohen, minority staff counsel.

OPENING STATEMENT BY SENATOR GOLDWATER

Senator GOLDWATER. The meeting will come to order. Senator Wilson is here to introduce Mr. Patrick.

The President has submitted to the Senate the nomination of Dennis R. Patrick to be a member of the Federal Communications Commission. As you know, this nomination is a reappointment. While Commissioner Patrick has had a relatively short career at the FCC, it has neverthless been a distinguished one of service to our Government and in service to those people in this great country of ours who rely on the FCC for jurisdiction of the communications industry.

I have the biographical sketch of Commissioner Patrick which will be put in the record.

I would also like to state that the record will remain open for the inclusion of additional written questions for Commissioner Patrick until the close of business today.

STATEMENT OF HON. PETE WILSON, U.S. SENATOR FROM CALIFORNIA

Senator WILSON. Mr. Chairman, I have a prepared statement for the record. The committee knows well not only the curriculum vitae of Mr. Patrick, but they are aware fully of the record he has compiled in his time on the Commission.

The statement I will submit for the record makes note of the distinguished service he has given. Let me just point out one or two things, and I will submit this for the record.

I think that he has shown a great discriminating judgment during a time when this Commission has had to deal with some complex and difficult decisions. I think that they have been aided in making those decisions by the intellect and the intellectual courage that he has displayed.

I have in mind the work that he has done in the telecommunications field in particular, the difficult problems facing the Commission in devising telephone service as we have known it, the rules relating to television station ownership. And, in particular, I am grateful for the initiative he has displayed in a very important area—and that is reserving a portion of the spectrum for public safety.

It is a paramount need he has recognized, and he has been a real champion in that regard.

So I will, in the interest of time, simply say that I am here to enthusiastically recommend that the committee take expeditious action that I know the chairman wishes to take.

[The statement follows:]

STATEMENT OF HON. PETE WILSON, U.S. SENATOR FROM CALIFORNIA

Mr. Chairman and Members of the Committee, I am honored today to appear here to introduce to the Committee Mr. Dennis Patrick, who has been renominated by President Reagan to serve as a member of the Federal Communications Commission.

Mr. Chairman, I will not run through Commissioner Patrick's *curriculum vitae*, for it is well known to the Committee from his appearance before you at his first confirmation hearing. Rather, I would like to make a few brief comments on Commissioner Patrick's work at the Commission from the perspective of a Senator who represents a state that has a great and continuing interest in the decisions of the FCC—be they ones affecting telephone rates, new communications services, or those three carnivorous organisms that are based in a large, northeastern state.

During the past few years, the FCC has reconsidered a number of very basic communications policies. Some actions were begun at the initiative of the Commission; others arose as a matter of necessity. Above all, the Commission has shown a commendable willingness to be the most adaptable federal agency—which is important because the universe it controls is perhaps the most fast-changing of any that falls under extensive government regulation. Indeed, this willingness is very much in keeping with the mandate given to the Commission by the Congress when it established the Commission as a body independent of the Executive Branch. The Congress, itself, realized that it was incapable of responding quickly enough to changes in communications technology, and while reserving to itself control over broad policy formulation, delegated to the FCC the authority to directly regulate an industry that inherently needs some federal regulation—until such time as we devise a way to repeal the laws of physics.

Mr. Chairman, Dennis Patrick has been a very real force at the Commission in its move to be even more adaptive to a changing universe. But just as importantly, he has been able to distinguish between that which has completely metamorphosed, that which has changed fundamentally, though not completely, and that which has only changed at its fringes.

In the first category, I would place telephone services. What the courts have put asunder, perhaps God might be able to reunite, but I doubt that mere mortals can. Despite reservations about the decision to break up AT&T, it is a "done deal." The FCC has properly ignored those nostalgic sorts who would have the Commission set policies as though the phone service industry were still monolithic.

In the second category, I would place the television industry. The revision of the station ownership rule adopted by the FCC provides for significant growth in the industry and certain economies of scale, while keeping in sight that there are inherent marketplace advantages to owning a television broadcast station that mandate that some limits be in place.

In the third category, I would place the ongoing work of the Commission in the area of frequency reallocation. Perhaps some services no longer need to have large portions of the spectrum reserved to them, but other long-standing services most certainly do. In particular, I want to note the needs of public safety. There are new technologies that are being developed that permit more efficient use of the spectrum which are the product of bright minds addressing marketplace demands. However, we must not force public safety agencies to go out to the marketplace and stand in line with purely commercial ventures. Frankly, the needs of public safety are paramount. If they can be reasonably addressed—that is, with available and affordable equipment and in a part of the spectrum that is appropriate to law enforcement purposes—without disrupting other services, that is the preferred route. However, if other services must be disrupted or moved, then that is how it will have to be. With the passage of the last two FCC authorization bills, I do not think that the Congress could be any more clear on this issue.

Mr. Chairman, on this last point, the needs of public safety, I want to particularly commend to the Committee the work of Commissioner Patrick. He has shown not just an intellectual grasp of the needs of law enforcement and other public safety services, but a true visceral understanding. This is the only way to describe his dogged persistence to see to it that, in the scramble for pieces of the spectrum by a virtual alphabet soup of new services, public safety will not end up as the bastard stepchild. This Congress, and the American Public, owe a debt of gratitude to Commissioner Patrick for his willingness to see that this problem is not forgotten—that our national public safety needs are met.

Mr. Chairman, with that I will conclude my remarks and simply urge the Committee to act expeditiously to bring Dennis Patrick's nomination to the full Senate for a vote on his confirmation.

Thank you.

Senator **Goldwater**. Thank you very much, Senator, for coming. It is always encouraging to have complimentary words from a fellow Californian.

[The biographical sketch follows:]

BIOGRAPHICAL SKETCH OF DENNIS ROY PATRICK

Address: 2500 Virginia Ave., N.W., Washington, DC 20037, Apt. 402S.

Date and Place of Birth: June 1, 1951; Glendale, California.

Marital Status: I am in the process of divorcing the former Milinda Leigh McNeely. We have been separated since July 1, 1984.

Names and Ages of Children: None

Education: (1) Occidental College, Los Angeles, California, September 1969-June 1973; Bachelor of Arts, Political Science; (2) UCLA School of Law, Los Angeles, California, September 1973-June 1976; Juris Doctor degree.

Employment Record: (1) December 5, 1983-present: Commissioner on the Federal Communications Commission, Washington, DC; (2) October 27, 1983 to December 4, 1983: Special Assistant to the Assistant Secretary, National Telecommunications and Information Administration, Department of Commerce, Washington, DC; (3) December 6, 1981 to October 26, 1983: Associate Director, Presidential Personnel at the White House, Washington, DC; (4) June 1976 to December 1, 1981: Lawyer, Law Offices of Adams, Duque & Hazeltine, 523 W. Sixth Street, Los Angeles, California (principally engaged in a business litigation practice).

8. Government Experience: (See above.)

(1) In addition, in the fall of 1975, while attending UCLA School of Law, I served as a law clerk to Justice William P. Clark of the California Supreme Court.

(2) During summer vacations between 1970 and 1974, I was employed by the Department of Harbors and Beaches, Huntington Beach, California.

Senator **Goldwater**. It is indeed a pleasure to have you with us, Commissioner Patrick, and you proceed in any way you wish.

STATEMENT OF DENNIS PATRICK

Mr. **Patrick**. Thank you very much, Mr. Chairman. I have a short opening statement I'd like to read, if I might.

I am honored to be here this morning as President Reagan's nominee to serve a second and full term on the Federal Communications Commission. I'd also like to thank you, Mr. Chairman, for this opportunity to explore my views with the committee and, I might add, for the interest you have shown and the knowledge you bring to the communications field. Your support in this area is very much appreciated by the Commission.

Last, I'd like to thank Senator Wilson for his introduction.

Since December of 1983, I've had the opportunity to serve on the Commission during a period of unparalleled change in the communications industry. To say that it's been exciting to play a role in those changes would clearly be an understatement.

I can state fairly that during the 1½ years that I have served as a Commissioner, I have approached issues with an open mind and with a desire to thoroughly explore the relevant factual, legal, and policy considerations before reaching any decision. At the same time, I take a certain approach to regulatory decisions. Let me briefly describe it.

First, I believe that the law defines the parameters of our policy discretion. All policy decisions must first and foremost comply with the Communications Act of 1934. Pursuant to that act, the touchstone for our regulatory decisionmaking is the public interest. Congress gave the Commission fairly broad discretion in determining what constitutes the public interest.

The fact is, however, that no one of us has a monopoly on wisdom with respect to what constitutes the public interest. My own view is that the public interest can best be defined by the public itself. For this reason, I approach regulatory issues with a presumption in favor of regulation by competitive market forces where possible. Relying upon market mechanisms is not a perfect solution, certainly, but it is often less imperfect than other approaches.

My presumption in favor of regulation by competitive market forces remains subject to an important qualification, however: While in many instances deregulation is an appropriate means of achieving our regulatory objectives, we must never confuse the means with the end. Deregulation is not an end in itself. Our regulatory goal is consumer welfare, maximizing the public interest.

For this reason, I do not hesitate to support regulatory intervention where the public will not be protected by the market alone. A market that is not workably competitive should not, in my opinion, be relied upon to protect the public. Distinguishing the circumstances in which a market can self-regulate from those circumstances in which regulatory intervention is necessary is a recurring and essential exercise for the Commission. It is also one of the most challenging tasks we face at the Commission.

If confirmed for another term, I will continue my effort to strike an appropriate balance between my belief that regulation by vigorous competition in free markets will usually best serve the public interest, and the need to retain regulatory control over portions of a complex and evolving telecommunications industry. In this effort, I look forward to working closely with Congress.

In closing, Mr. Chairman, I will mention just a couple of areas to which I will give high priority if confirmed for another term by this body. The goals I mentioned during my first confirmation hearing still seem appropriate: First, we must ensure the existence of a vigorous and competitive communications marketplace. To this end, I will continue to encourage the Commission to lower barriers to entry, to reduce licensing backlogs, and to expedite the process by which new technologies and new licensees are authorized to enter the marketplace. Second, we must preserve and promote diversity of speech in the marketplace of ideas. The first amendment is the cornerstone of freedom in a democratic society. My commitment to competition in the economic marketplace parallels a strong commitment to free and open competition in the marketplace of ideas.

To these, my original goals, I add two others: First, we must ease the transition from a monopoly-based telephone system to one in which competition is allowed to flourish where possible. Our goal should be to bring to the people of this country the widest variety of services at the least possible cost and, at the same time, to preserve universal service. Second, we should continually reexamine the manner in which we allocate spectrum in order to ensure that the public interest is maximized, not the priorities of five Commissioners in Washington.

Mr. Chairman, that concludes my opening statement and I would be happy to answer any questions you may have at this time.

Senator GOLDWATER. Thank you very much.

Senator Gorton.

Senator GORTON. One question, Mr. Patrick.

You made two references, one direct and one more general, to regulation and competition. How does the philosophy which you've set forth in your opening statement reflect on your views in the development of a competitive long-distance market, deregulation of AT&T, and equal access dialing for other long-distance carriers?

How do you think that can be accomplished?

Mr. PATRICK. Senator, that is a very important question which, as you know, is before the Commission in many forms right now. I think that the general philosophy which I stated bears fairly directly on how we analyze that question.

I believe that the long-distance, the interexchange, market is potentially competitive. At the same time, I think that this is a very important period in terms of the transition from a telephone structure that was dominated by one firm to one in which competition can become viable. I think it's incumbent on the Commission, therefore, to carefully monitor developments of competition in those markets.

As you know, we're considering a number of issues that go directly to that question.

Senator GORTON. On another subject, how does your philosophy influence your attitude toward the proper role of the FCC in connection with the takeover or purchases——

Mr. PATRICK. Senator, as you know, this is a subject that involves a number of restricted adjudicatory matters before the Commission at this time, so I will try to answer your question in general terms.

I think that the first point to be made here is a very important point: That the Commission must first comply with the Communications Act. Section 310(d) of the act, as you know, Senator, says the Commission must pass upon assignments of licenses and upon transfers of control of corporations holding licenses. And we must find that the transfer will serve the public interest.

The procedures whereby we do that are set forth in section 309. So the first point to be made, I think, Senator, is that we have to comply with the act to pass upon the public interest in the transfer of those licenses.

Second, I think there is another goal that I think we have to reconcile and accommodate. And that is, having complied with the act and fulfilled the obligations there, I think it's also important for us not to allow our processes to be used as a sword by the insurgents, if you will, nor as a shield by incumbent management. I think that to the extent we can, we should attempt to not interfere with the exercise of shareholder rights.

So it's a matter of attempting to balance those goals. But as I said, Senator, our first interest is in complying fully with the act.

Senator GORTON. I appreciate that.

Thank you, Mr. Chairman.

Senator GOLDWATER. Mr. Ford.

Senator FORD. Thank you, Mr. Chairman.

Let me follow up on Senator Gorton's questions a little bit. Do you monitor in the telephone system, where there is a monopoly, the huge increase of rates? I think a rate increase has been requested right now in Washington where they are asking for about $55 to $60 million increase. Of course, the theory has been that long distance users and big users have supplemented residential rates, and now the residents are going to have to pay their fair share.

Do you all monitor any of those rate cases?

Mr. PATRICK. Senator, my understanding is that the bureaus generally follow those rate cases and what is going on in terms of a request for rate increases. What formal procedures they utilize to follow those rate cases, I am not sure.

Senator FORD. This could create some kind of furor that would come back to you for consideration or bring something to the Congress that you all might be involved in. Is it a pretty good idea to follow and monitor some of these?

Mr. PATRICK. I think it is, Senator. I think it's important for the Commission to have an overall sense of how the changes in the structure of the telephone system are affecting rates at all levels.

I think it's very important for us to have that information and to generally monitor it.

Senator FORD. I find that indeed with regulation, that some fare well and others fare less, and some are almost annihilated. Do you all take an average, then, and say it is all good?

Take airlines, for instance. Some communities have done very well. I stood back in line with a lady buying a ticket to Denver, and I was going to Louisville. Her whole round trip was $240 and mine was $396. And so I went half as far as she did, and that bothered me considerably.

So when you start digging in my pocket, then you begin looking at deregulation. And you look at Charleston, WV. They're almost annihilated in relation to airlines because Charleston is not a very good terminal for the major airlines.

So it bothers me that we have got pockets that are really severely hurt and others that have acquired hubs, and things begin to look so much better for them, and yet we sit here with millions of dollars in our airport development program.

I'd like to talk about the media. The media gets an awful lot of attention here lately, and Senator Gorton alluded to it. There have been—and these are some of the questions—and they may be technical, but these are the ones that I received from people that have a great deal of interest in it, so let's just get them on the record if we can.

There have been a number of takeover attempts with regard to broadcast licenses which have used the so-called short-form application.

Would you advise me as to your thinking concerning where the situation of the short form would be utilized, as opposed to use of the longer form, which I understand requires more scrutiny.

Mr. PATRICK. Yes, that is generally correct, Senator. Let me answer your question by first providing some background. Section 310(d) of the act, as I mentioned, requires the Commission to act upon transfers of control.

Senator FORD. The short form is the insignificant takeover, and I do not understand what "insignificant takeover" might mean.

Mr. PATRICK. Section 309 indicates that the Commission in general should utilize the procedure that involves the long form; that is, the procedure in which there is 30 days for public comment, and formal petitions to deny are entertained. That is generally considered the long form.

The forms, of course, are forms that the Commission has established in order to comply with that section of the act.

To answer your question specifically, Senator, section 309 goes on to specify a number of circumstances in which it is appropriate to use the so-called short form. The most substantial exception, I think, is one which provides that in the event that there is no substantial change in ownership or control, it is appropriate to use the short form which does not have the mandatory 30-day opportunities for petitions to deny.

There are a number of other circumstances that are actually specified in the statute. For instance, involuntary transfers. So to answer your question, those circumstances are specified where we can use the short form. The largest exception, one which frankly requires some interpretation on our part, is when there is an insubstantial transfer of control.

Senator FORD. Well, let's look at the large and the small a little bit. What is your opinion, or do you believe that a takeover of a television network should be treated in the same manner by FCC as the transfer of a small radio station in terms especially of financial qualifications?

It is my understanding FCC's current policy is that the transferee must show the ability to operate for only a 90-day period.

Mr. PATRICK. Well, your question really has two parts, Senator.

Senator FORD. It usually does. However you want to break it down.

Mr. PATRICK. Let me see if I can break that down, and if I miss something I am sure you will remind me.

Senator FORD. You can bet on it.

Mr. PATRICK. The question as to the difference in the transfer of an individual station versus a network, first of all, is at issue in the matter of CBS/Turner, and I cannot respond specifically to that question in a manner that would suggest I am prejudging that matter.

So I hope you will indulge the fact, Senator, that I have to give you a fairly general answer, and that is, first of all, whatever transfer you are talking about, it depends upon the type of transfer, the structure of the transfer, and so forth, in terms of how the statute will apply.

Additionally I would say, and more generally, networks I think involve some different considerations. I think the Commission can and should take judicial notice of the fact that when you are talking about a network, there may be different issues with respect to competition that we may have to consider.

I think in general terms, yes, networks obviously are very important to the structure of broadcasting in this country. But again, specifically how we handle the particular transfer case depends upon the structure of that transaction.

Senator **Ford**. Well, what you are saying to me, then, as we would say in western Kentucky, that each case has to rest on its own bottom.

Mr. **Patrick**. That is absolutely correct, Senator.

Senator **Ford**. Do you believe that the practice of the FCC in the past of holding evidentiary hearing in the case of a takeover attempt, say a television network, is still a good policy?

Mr. **Patrick**. Senator, I think there has been a little confusion, at least in the media discussion of this issue, that I would like to clarify. The Commission has proposed to hold an en banc hearing in a matter that has been before the Commission. The en banc hearing is in no way intended as a substitute for an evidentiary hearing.

The act, as it exists today, requires that, in the event there is a material and substantial question of fact raised with respect to the transfer of the broadcast property, the Commission is required to have an evidentiary hearing.

And to answer your question, Senator, yes, where there are material and substantial questions of fact raised, I think it is appropriate to have an evidentiary hearing, and the Commission will have an evidentiary hearing, in the event there are such questions raised.

Senator **Ford**. Mr. Chairman, I know your irritation if the hearings go on too long, and I would not want to irritate you this morning because I like you too much.

Senator **Goldwater**. You can't irritate me this early.

Senator **Ford**. This early?

What I would like to do, Mr. Patrick, is submit to you a couple more written questions. I have broken them down into a couple of parts. Could you answer those in writing for me, say within 1 week or 10 days?

Mr. **Patrick**. I would be pleased to do that.

Senator **Ford**. I will do that, Mr. Chairman, submit them for the record for the nominee to answer.

Senator **Goldwater**. Thank you very much, Senator.

I have a few questions I am going to submit to you for your response. In the interests of time, I will ask the members present, if they have no objection—oh, here comes another one. Do you have some questions?

Senator **Kasten**. I do have some questions. That is why I came over. Maybe you have asked the questions.

I am just advised by my staff that Senator Ford asked some of the questions that I would have asked, so let me not repeat those, then, but just submit questions for the record.

Senator GOLDWATER. Ask them if you want to. We do not go into session for another 40 minutes.

Senator KASTEN. Thank you, Mr. Chairman. I will submit my questions for the record.

Senator GOLDWATER. Mr. Patrick, we thank you for being here. I want to thank you for the service you have given and, without objection, I have some questions and we will poll the balance of the committee by this evening, hoping to get approval, and your name will be properly recognized and reported to the President.

Senator FORD. Mr. Chairman, I would prefer to have my questions answered before we send the nominee forward.

Senator GOLDWATER. Maybe he can get them over by this afternoon.

Senator FORD. If he can—but I would have to reserve my position.

Senator GOLDWATER. How much time do you want?

Senator FORD. Until he gets the questions in. I have no problems with this. All I want is a couple of questions answered, and he is willing to do that, and I am very happy to allow him to do that, because he has to be careful about the legal questions and answers, and I want to give him the opportunity to do that.

Senator GOLDWATER. For Senator Ford, we will wait until the questions are available and that might be this afternoon or tomorrow or next week.

So, having no other questions, thank you. The committee will stand adjourned.

[Whereupon, at 9:25 a.m., the hearing was adjourned.]

[The following information was subsequently received for the record:]

QUESTIONS OF SENATOR GOLDWATER AND THE ANSWERS

Question 1. I understand that the Commission recently acted on the issue of ITFS use. What did you do to ensure maximum use of ITFS channels by local, *bona fide* educational entities?

Answer. In May, 1985 the Commission adopted rules governing use of ITFS frequencies. These rules are intended to help ensure maximum use of ITFS channels by local, *bona fide* educational entities. First, the rules freeze the applications of national applicants for ITFS channels for one year. During this time only applications filed by local entities will be processed. After this period, non-local applications will be considered using the point-system, comparative procedure under which four points will be awarded to local applicants and three additional points will be awarded to applicants that are accredited schools or institutions. This system guarantees that a local, accredited institution will win over an applicant who is not both local and accredited. In order to be considered at all, national applicants will be required to establish a local program committee in each community where they apply; this will help ensure that the particular programming and scheduling needs of local areas will be considered. In addition, non-accredited applicants, whether national or local, will have to show that an accredited institution intends to offer the program for credit. The rules also seek to preserve the educational quality of ITFS by requiring licensees who lease excess capacity for non-ITFS use to offer ITFS programming a minimum of twenty hours per week per channel and to reserve or be able to recapture twenty additional hours for such programming.

I am hopeful that these rules will preserve the local, educational character of ITFS, while allowing for the infusion of capital from non-ITFS, uses to help support and maintain ITFS systems.

Question 2. Last year the Congress passed the Cable Act of 1984, providing for deregulation of basic cable rates in two years where there is "effective competition." Please describe how the Commission has implemented this provision and the basis for your action.

Answer. In April, 1985 the Commission adopted rules implementing the provision of the Cable Act of 1984 that deregulates basic cable rates where there is "effective competition." The Commission determined that "effective competition" exists in markets where there are at least three nonduplicative local television signals, measured by Grade B signal overlap or a "significantly viewed" standard. The basis for our decision was that Arbitron data indicated that in markets with three or more television signals, cable viewership was less than the viewership of any one local television signal. (In two-signal markets, by contrast, cable viewership could be as large or larger than viewership of any one television signal, which could be a source of market power for the cable operator.) From these data, the Commission concluded that cable television in markets with at least three local television signals was subject to effective competition.

Question 3. In 1982, Congress passed legislation which I had introduced that permits the FCC to use volunteers in preparing and administering examinations for the amateur radio service. To your knowledge, how is this program working?

Answer. I am pleased to report that the volunteer examination program is working very well. It replaced the previous FCC administered examination program. The rules for implementing the program were adopted in September, 1983. Currently, there are approximately 10,000 volunteer examiners available to administer examinations for amateur radio operator licenses. Since the program's inception, over 50,000 examinations have been given. This is a good example of a program that is better administered by the private sector, here the users themselves, than by the FCC. The Commission is continuing to look for additional opportunities to employ the volunteer services of amateurs in the examination process. For example, last month the Commission issued a Notice of Proposed Rulemaking proposing to get volunteer-examiner coordinators and amateurs involved in the preparation of questions for the examinations, a function currently performed by the FCC.

Question 4. Do you believe that public safety has special spectrum needs? If so, how can they be met?

Answer. Yes, public safety does have special spectrum needs. I agree with the view expressed by Congress in the House Report to the FCC Authorization Act of 1983 that public safety considerations should be a top priority when frequency allocation decisions are made.

The Commission is acting in several ways to meet its responsibilities to public safety. As directed by Congress in the FCC Authorization Act of 1983, the Commission has a docket pending through which we intend to develop a plan to meet the nationwide future spectrum needs of public safety. The staff has prepared to report which analyzes and quantifies future public safety spectrum requirements, and discusses a number of options to satisfy these needs. The Commission recently voted to release this report for public comment. The Commission intends to use the comments in developing the public safety plan mandated by Congress. In addition, the Commission has pending a Notice of Proposed Rulemaking to make 30 percent of a proposed 900 MHz private land mobile allocation available exclusively for public safety entities, and a Notice of Proposed Rulemaking which would make additional UHF-TV spectrum available on a shared basis to land mobile users, including public safety agencies, in eight major cities.

I have made issues relating to the spectrum needs of public safety users a high priority in my office and will continue to do so if reconfirmed by the Senate.

Question 5. It has been reported that the Commission will act on the Cox Cable Petition before the August recess. Will the Commission act before the recess, and, if so, will the Commission give due consideration to the Cable Act of 1984, and its report language?

Answer. It is my understanding that the Commission will attempt to act upon the Cox Cable Petition before the August recess. I have undertaken a preliminary review of the Cable Act of 1984 and the report language which discusses the issue of regulatory treatment of non-cable communications services provided over cable sytems. While not dispositive of the issues raised in the Cox Petition, the report langauge provides a useful discussion of related issues. I certainly will consider both the language of the Cable Act and its legislative history in my deliberations on the Cox Cable Petition.

Question 6. There are now bills pending in both Houses that reflect Congress's continuing commitment to preserving universal telephone service. What steps is the Commission taking to make such legislation unnecessary?

Answer. The FCC shares the congressional commitment to universal service. A long run goal of the Commission's access charge plan is to combat bypass which can drive up local rates, thus threatening universal service. The access charge plan has also incorporated several short-run safeguards. For residential and small business customers, the plan provides for a gradual introduction of subscriber line charges which will not rise above $2.00 per line until the Commission completes a comprehensive review of its access charge plan in late 1986 and will be raised then only if determined to be necessary after appropriate notice and comment. The plan includes subsidies for high cost and rural telephone companies funded through a Universal Service Fund. It also permits telephone companies with state or Joint Board concurrence to fashion alternative or experimental access tariffs tailored to local conditions. Finally the FCC has adopted measures that could result in an effective waiver of the subscriber line charge for low-income households under certain conditions. The Commission has also directed the Joint Board to make recommendations concerning lifeline options by the end of September 1985. As noted, the full commission will also undertake a broad review of the entire access charge plan in 1986.

Question 7. There has been much discussion lately about international trade in telecommunications equipment. How do you view the FCC's role in the international trade area?

Answer. The Communications Act does not grant the FCC any specific authority in the area of international trade. Therefore, the Commission has looked to Congress and to the Executive Branch for guidance in this area. I expect that the Commission will continue to do so. Nonetheless, the Commission can play a useful role in providing the Congress and the Executive Branch with technical and procedural information that may be helpful in efforts to promote free trade in telecommunications equipment. For example, foreign-manufactured telecommunications equipment is registered for sale and use in the United States pursuant to the FCC's Part 68 registration program. Our procedures provide for expeditious registration, with review substantially limited to whether the equipment will harm the U.S. telecommunications network. I understand that the registration program in many foreign countries is considerably more burdensome.

The Senate has asked the Commission to assess whether there is legal authority to use the Part 68 certification process as a trade tool, that is, as a means of encouraging trade reciprocity with foreign countries that deny equal market access to U.S. products. The Commission is in the process of studying the issue, and hopes to report its findings to Congress soon.

Question 8. One goal of the MFJ was to require the Bell operating companies to provide "equal access" to all interexchange carriers as a means of promoting effective competition. What is equal access and does the Commission plan to examine this issue further?

Answer. Generally, "equal access" refers to interconnection to local switching facilities ("end offices") provided to an interexchange carrier which is comparable in quality to that enjoyed by AT&T. Thorugh the superior interconnection brought by equal access, a customer of a carrier other than AT&T ("OCC") will be able to access the OCC's long distance network without dialing extra digits. Beyond this, however, there is some disagreement concerning the appropriate definition of equal access. At present, OCCs are required to pay the higher rates for interconnection as equal access becomes available on an end office by end office basis. Some OCCs contend that they should have to pay premium rates only after (1) all end offices in a given area have been converted to offer equal access; and (2) access tandems, which reduce the OCCs' network configuration costs, are in place.

This issue has been raised most recently in a petition filed with the Commission by four OCCs including GTE-Sprint. The Commission is examining the petition on an expedited basis with action expected this fall.

Question 9. The Commission is currently considering whether it should authorize International Satellite Systems separate from Intelsat. What standard do you anticipate applying to reach a decision on this question and when do you anticipate the Commission acting?

Answer. The President found that separate international satellite systems are required in the national interest, subject to certain conditions. While his finding is entitled to great weight, the standard that the FCC must use in reviewing these applications is a "public interest" standard. One of the issues raised by the Commission's combined Notice of Inquiry/Notice of Porposed Rulemaking on this subject is precisely how these two standards differ. I believe, in general, the Commission has to balance the benefits of competition against our commitment to Intelsat, and our obligations as a signatory to the Intelsat Agreement.

I believe the Commission should reach a decision on this matter as soon as possible, consistent with our intention to thoroughly review all of the underlying issues.

Question 10. The telecommunications industry is in a transition period—we are moving toward competition and away from a regulated monopoly. Briefly, what sort of regulation of AT&T do you think is appropriate during this transition period? At which point do you think it would be appropriate to deregulate AT&T?

Answer. At this time AT&T remains the dominant service provider in interexchange service markets. For this reason the next few years will be a crucial period for the development of robust competition in these markets. AT&T must continue to be subject to rate regulation as long as it retains market power. Evolving market structures require a sophisticated market by market analysis of how we should regulate AT&T's service offerings. The fact that it retains market power in one service market should not necessarily compel full rate regulation in another market in which it no longer retains such power. As AT&T's market power in a given service market wanes, I would expect the Commission to relax its regulation in a gradual manner. It is expected that AT&T's market power in most interstate markets will decline as equal access becomes more ubiquitous and facilities competition becomes a reality.

Indentifying that point at which AT&T no longer retains market power in the relevant market, or the ability to cross-subsidize its offerings within that market, is an exercise of crucial importance for the development of interexchange competiton. It is an exercise to which I will give careful attention if reconfirmed.

Question 11. Some claim that proposed relaxation of present tariff regulation of AT&T will threaten the development of competition in the interexchange market. What is your view?

Answer. As I have mentioned, I believe that the next few years are a crucial period for the development of robust competition in the interexchange services market. Regulating the rates at which AT&T offers its basic services during this period is one of the most complex tasks the Commission faces. On the one hand, the FCC must carefully review AT&T's price packages during this critical period to assure that they are not anticompetitive. On the other hand, price competition in interexchange markets is a goal of the AT&T divestiture. Moreover, the Commission has an obligation to the ratepayers to carefully consider approving rate discounts that are not anticompetitive and that reflect real efficiencies. Hoepfully the Commission's pending rulemaking to review costing standards for dominant carriers' optional MTS offerings will lead to guidelines that strike the proper balance between these concerns.

Question 12. Many telephone customers and rural telephone companies are concerned that the FCC may allow AT&T to reprice its services to make high density routes less expensive and low density routes more expensive. What are your views regarding such "geographic deaveraging"?

Answer. The Commission has begun a rulemaking proceeding to explore the effects of increased competition, recent changes to the Separations Manual, and the introduction of access charges upon our policy of support for rate integration. I will, of course, carefully review the comments filed in this rulemaking. Moreover, at the present time, AT&T has not demonstrated that its ability to compete in the interstate switched services market has been seriously hampered by the Commission's policy against geographic rate deaveraging. As such, at this time I remain committed to geographic rate averaging.

Question 13. Please comment on whether the Computer II restrictions on AT&T and the Bell operating companies should be revisited by the FCC.

Answer. I believe that chnaged circumstances since Computer II was adopted in 1980 warrant Commission review of Computer II restrictions. The Computer II decision served the useful purposes of identifying and deregulating the competitive enhance services and CPE markets, while at the same time guarding against the possibility that the Bell system would cross subsidize competitive service offerings with revenues generated from regulated services.

These same purposes remain laudable policy goals in 1985. However, a number of circumstances have changed since 1980. Importantly, AT&T has divested its local operating companies and thus no longer controls local "bottleneck" facilities. Such control was once considered to give AT&T the ability to discriminate against competitors needing access to these facilities as well as providing a principal, potential source of revenues with which to subsidize competitive enterprises. (The BOCs, of course, retain control over these "bottleneck" facilities and, therefore, their situation must be analyzed differently than AT&T's in this regard.) Increasing competition in regulated and unregulated markets and the imposition of access charges have also reduced the ability of AT&T and the BOCs to behave anticompetitively.

As such, it is possible that safeguards less onerous than full structural separation could satisfy legitimate concerns about cross-subsidization and discriminatory access to facilities or information. I note, however, that different service markets must be analyzed separately.

Last, the "bright line" between enhanced and basic services articulated by Computer II in 1980 is increasingly outdated by technological developments. As such, the definitional demarcation between "enhanced" and "basic" services may, in 1985, impede rather than advance analysis of the underlying public policy issue: How do we ensure that the widest range of communications services are provided to the American people at the least possible cost, while preventing anticompetitive conduct by service providers?

In light of these changed circumstances, I believe the Commission should review the Computer II "model" to determine whether there exists a better means by which to advance our policy goals of facilitating the provision of services at the least possible cost while, at the same time, adequately guarding against cross-subsidies, discriminatory access to facilities and information, and other forms of anticompetitive conduct.

Question 14. About two months ago, the FCC issued a notice of proposed rulemaking on Domestic Satellite Licensing procedures. This rulemaking proposes to apply more extensive financial qualifications and "loading" requirements on applicants. Do you think this rulemaking may have any effect on competition in satellite services?

Answer. I believe the intent of the Notice of Proposed Rulemaking on domestic satellite licensing procedures is procompetitive. Its goals are to prevent warehousing of scarce orbital slots and to assure that licensees in fact have the financial resources needed to bring their satellite services to the public promptly. The Notice proposes to achieve the first goal by requiring existing licensees to demonstrate a certain percentage occupancy or "fill" on current facilities before receiving authorization for expansion satellites. It proposes to achieve the second goal by requiring a rigorous showing regarding an applicant's financial qualifications. Parties commenting on the requirements, including current licensees with successful satellite operations, have claimed the proposed standards are too rigorous and, in fact, may be anticompetitive. I am reviewing our Notice and the comments carefully to assure myself that the standards finally adopted by the Commission satisfy the procompetitive intent of the original proposal.

QUESTIONS OF SENATOR KASTEN AND THE ANSWERS

Question 1. As I understand it, there have been in the past three attempts to take over a major television network before this year—all involving ABC. Did the FCC in these three instances have evidentiary hearings to determine if the transfer was in the public interest?

Answer. There are three instances of which I am aware involving transfers of a network. All involved ABC. Of these, however, only one involved a hostile takeover attempt—by Hughes Tool Company. The Commission in that case concluded that a hearing should be held, but the hearing was not to occur until such time as the tender offer was successful, and the nature of the hearing was to be determined later; Hughes withdrew its offer before the tender offer was completed.[1]

The two other cases were friendly mergers. In one, involving United Paramount Theatres, the Commission did order and hold an evidentiary hearing; it later granted the transfer application and the companies merged.[2] In the other, involving ITT Communications, the Commission considered the transfer application and granted the application after an *en banc* hearing, without holding an evidentiary hearing. It was only on reconsideration, when the record was reopened in response to a petition filed by the Department of Justice, that the Commission ordered an evidentiary hearing.[3]

Question 2. What is your position as to the appropriate standard to be used by the Commission in determining whether or not an evidentiary hearing in such a takeover attempt should be held? (Note: The statutory standard is whether or not questions of substantial and material fact exist.)

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[1] Letter from Rosel H. Hyde, Chairman, Federal Communications Commission, to Gregson Bautzer, representative for Hughes Tool Company (July 3, 1968).

[2] Paramount Television Productions, Inc., 17 F.C.C. 264 (1953).

[3] ABC-ITT Merger, Memorandum Opinion and Order, 7 F.C.C. 2d 245 (1966), Order on Petition for Reconsideration, 9 R.R. 2d 87, Further Order on Petition for Reconsideration, 9 R.R. 2d 414a, Opinion and Order on Petition for Reconsideration, 10 R.R. 2d 289 (1967).

Answer. In determining whether to order an evidentiary hearing on a transfer application, the Commission is governed by Section 309(e) of the Communications Act. That section of the Act requires an evidentiary hearing if either a substantial and material question of fact is presented or if the Commission is unable to find that the transfer would serve the public interest. This statutory standard is the appropriate standard for determining whether to order an evidentiary hearing in the takeover attempt.

Question 3. Would the use of a short form application ever by appropriate in the instance of the takeover of a television network? As I understand it, the past practices of the Commission have been to use the short form only in the instance of insignificant transfers.

Answer. Under Section 309(c) of the Act, the short-form application is permitted under certain specified circumstances, including where the transfer "does not involve a substantial change in ownership or control." Because use of the short form may be at issue in the Turner/CBS case, which is a restricted, adjudicatory matter, I cannot comment on the appropriateness of the use of this form in the case of an attempt to take over a network.

QUESTIONS OF SENATOR HOLLINGS AND THE ANSWERS

Question 1. At your last confirmation hearing, you stated your regulatory philosophy. After serving on the FCC for over a year and a half, how has your philosophy evolved?

Answer. My regulatory philosophy remains fundamentally unchanged: I approach regulatory issues with a presumption in favor of regulation by market forces, where possible. Free markets, where workably competitive, are often the best mechanism available to identify and meet consumer demand which varies from place to place and which changes from time to time. Thus, reliance upon market mechanisms is often the best means of maximizing the public interest.

After a year and a half on the Commission, I now try to apply this philosophy with increasing refinement. First, before considering policy options, we must carefully review the Communications Act (the "Act") to identify the parameters of our discretion, if any. Thereafter, it is insufficient to frame the issue in terms of "regulation" versus "deregulation." It is necessary, instead, to carefully identify the public interest policy objective first and then to ask what mechanisms will maximize the probability of achieving those objectives. We must scrutinize the structure of the market and submarkets so that we can determine exactly which market or markets are involved and, hence, would be relied upon to "self-regulate" should we choose to deregulate. It is also important to distinguish between business deregulation and technical deregulation, as different considerations may apply. Last, we should be mindful of restraints imposed on us by other laws, including the First Amendment, irrespective of our philosophical and economic presumptions.

Question 2. What should the FCC use as a standard upon which to base any deregulation? Who should bear the burden of proof that deregulation is warranted?

Answer. Deregulation should be based on a determination that the public interest would be served thereby. The issue, therefore, is not so much a matter of who has the burden of proof, but whether the public interest would be served by a particular deregulatory action. Deregulatory action may be proposed by petitioners filing such requests with the Commission or by the Commission itself, since I believe that the Commission should routinely reexamine its rules and policies and eliminate those rules that are inimical to the public interest.

Question 3. There has been a longstanding debate on how common carriers should allocate their costs among regulated services and between regulated and unregulated services. What are your views?

Answer. Regulating the rates at which AT&T and the local telephone companies offer basic services is one of the most complex tasks the Commission faces. The Commission has begun a rulemaking to explore the question of whether it should continue to require dominant carriers to use a fully distributed cost (FDC) methodology to determine rates for optional MTS offerings. In answering this question, I believe we must recognize that the next few years are a crucial period in the development of interexchange service competition, and that the Commission must therefore very carefully review any AT&T price package to be certain it is not anticompetitive. On the other hand, as the Commission recognized in its *Private Line Rate Structure Guidelines Order*, certain departures from pricing based on FDC may encourage more efficient use of facilities, promote competition, and stimulate sufficient demand and revenues that customers for the carrier's other regulated services may benefit by concomitant lower rates. I am hopeful that the debate stimulated by the Notice of Proposed Rulemaking will lead to a set of guidelines that strike the proper balance.

I believe that costs should be allocated between regulated and unregulated services to assure that regulated service ratepayers do not subsidize a carrier's unregulated activities. This means that costs that can be directly assigned should be directly assigned. Joint and common costs should be allocated based on factors that fairly reflect how the costs were incurred and that ensure no disproportionate burden is imposed on ratepayers. For these reasons the selection of the factor to be used to allocate specific costs can be very difficult. I understand that the Commission will initiate a rulemaking on this subject in the fall of this year.

Question 4. What do you see as the advantages and disadvantages of the FCC's Second Computer Inquiry?

Answer. Computer II made three significant changes. First, it deregulated customer premises equipment (CPE). Second, it attempted to define a "bright line" between "basic" communications services subject to rate regulations and "enhanced" services which would not be subject to Title II regulation. Finally, it required that the Bell System participate in the deregulated CPE and enhanced services markets only through a separate subsidiary.

The Computer II decision served the useful purpose of identifying and deregulating the competitive enhanced services and CPE markets, while at the same time guarding against the possibility that the Bell System would cross-subsidize competitive service offerings with revenues generated from regulated services. The deregulation and anticompetitive safeguards provided by the Computer II model are its principal advantages.

Any disadvantages of the Computer II model has resulted largely from the changed circumstances occuring since 1980. Importantly, AT&T has divested its local operating companies and thus no longer controls local "bottleneck" facilities. Such control was once considered to give AT&T the ability to discriminate against competitors needing access to those facilities as well as providing a principal, potential source of revenues with which to subsidize competitive enterprises. (The BOCs, of course, retain control over these "bottleneck" facilities and, therefore, their situation must be analyzed differently than AT&T's in this regard.) Increasing competition in regulated and unregulated markets and the imposition of access charges have also reduced the ability of AT&T and the BOC's to behave anticompetitively. For this reason, it is possible that safeguards less onerous than full structural separation could meet legitimate concerns about cross-subsidization and discriminatory access to facilities or information. I note, however, that different service markets must be analyzed separately.

Last, the "bright line" between enhanced and basic services articulated by Computer II in 1980 is increasingly outdated by technological developments. As such, the definitional demarcation between"enhanced" and "basic" services may, in 1985, impede rather than advance analysis of the underlying public policy issue: How do we ensure that the widest range of communications services are provided to the American people at the least possible cost, while preventing anticompetitive conduct by service providers?

Question 5. If the FCC decides to forgo structural separation as now required by the Second Computer Inquiry, how should the FCC ensure that regulated ratepayers are not harmed by having to pay the costs of unregulated ventures?

Answer. If the Commission decides to forego the structural separation requirements of Computer II, I believe that it will have to rely upon a mix of accounting and allocation rules to avoid ratepayer subsidy of unregulated ventures. While I believe the Commission should promulgate a Cost Allocation Manual to help address the issue, the remaining burden should be upon the carrier seeking a relaxation of structural separation requirements to develop a system of accounting and allocation rules which assures that regulated service customers do not subsidize unregulated ventures.

Question 6. What aspects of the broadcast industry are competitive and what not fully competitive?

Answer. Although the degree of competition may differ in certain markets, I think it is fair to conclude that commercial radio and commercial television are competitive. By contrast, public broadcasting stations, both radio and television, are not competitive with other stations in the marketplace and thus have been reserved spectrum by the Commission. Although not necessarily a Title III broadcast service, instructional television in the ITFS service is similarly not competitive in the marketplace. We thus have reserved spectrum for it and have imposed a number of restrictions on ITFS licensees who choose to lease capacity for non-ITFS uses in order to ensure that ITFS spectrum is used primarily for instructional purposes. Without such limitations, market forces might result in an effective reallocation of ITFS spectrum to an entertainment video service.

Question 7. What are your views on the Fairness Doctrine, including the FCC's recent record of administration and enforcement?

Answer. I think that Congress probably codified the Fairness Doctrine when it amended Section 315 of the Act in 1959. Therefore, it is my tentative conclusion that the Commission lacks the authority to repeal it. As a policy matter, however, I have reservations as to whether the Fairness Doctrine serves the public interest. My reasons are two-fold. First, the notion of "scarcity," upon which the Supreme Court relied in *Red Lion* when it upheld the doctrine's limitations on the First Amendment, is suspect in today's marketplace. Second, I am concerned about the doctrine's chilling effect on broadcasters, something about which we received a good deal of testimony at our *en banc* hearings earlier this year. If the effective result of the doctrine is that viewers are receiving less information because of chilling, then the doctrine may not be serving the public interest.

As long as the Fairness Doctrine remains the law, it is incumbent upon the FCC to enforce it faithfully. Administration of the doctrine is difficult, requiring very subjective decisions to be made upon which reasonable people may differ. Nonetheless, to my knowledge the Commission has made a good faith effort to administer and enforce the doctrine. I voted to find a fairness doctrine violation this year (in the *Syracuse Peace Council* case) and I will again if other violations occur.

Question 8. Do you support affirmative action in the hiring practices of broadcast licensees and cable operators?

Answer. Yes. I believe that broadcast licensees and cable operators should make affirmative efforts to identify qualified minority and female applicants before making hiring decisions.

Question 9. Do you believe that the existing EEO processing guidelines are a useful tool? How should they be employed in determining whether the Commission's EEO requirements have been fulfilled?

Answer. I believe that EEO processing guidelines are a useful administrative tool to assist the FCC in identifying for further scrutiny those licensees or operators who may be discriminating or not making reasonable affirmative efforts. I have reservations, however, about articulating our parity guidelines to the industry, for the reason that they may be interpreted as a quota by those whose employment figures fall below the guidelines or a "safe harbor" (where no further efforts are needed) by those whose figures are above the guidelines. In my opinion parity guidelines should be neither a quota nor a "safe harbor."

The issue of how the Commission should use EEO processing guidelines in cable is the subject of an outstanding rulemaking that should be completed this fall. I look forward to reading the comments before reaching a final decision on this issue.

QUESTIONS OF SENATOR FORD AND THE ANSWERS

Question. The Commission has permitted the use of voting trusts in friendly merger cases where the trustee votes to maintain existing management and effectively insulates the beneficial owner from *de facto* control of the company. Wouldn't you have to be particularly vigilent and insist on strong insulating mechanisms in hostile takeover cases where the "raider" has an obvious incentive to change the corporation's management and policies?

Answer. Whether a trust is an appropriate mechanism in a takeover case and, if so, how that trust should be structured, will depend on the particular facts and circumstances of each case. My answers to these questions reflect my current general views and concerns regarding the use of trusts where a trust is appropriate. These answers do not address any specific matter before the Commission. I also look forward to reviewing comments received in response to our Notice of Inquiry on Tender Offers and Proxy Contests.

In answer to question number 1, I agree that the Commission must insist on strong insulating mechanisms if a voting trust is used in a hostile takeover case.

Question. Even if the Commission were to rule that no substantial transfer of control occurs when majority stock ownership shifts to a voting trustee in a hostile takeover case, wouldn't it be necessary to require maintenance of the *status quo* with regard to actual operating (or *de facto*) control?

Answer. It is my current belief that a voting trustee should be required generally to maintain the *status quo* with respect to operations and management.

Question. In particular, wouldn't the insulating mechanisms have to ensure that a voting trustee would not replace existing directors or managers with the beneficial owner's nominees?

Answer. In general, I agree. I cannot now conceive of a circumstance in which it would be appropriate to allow a voting trustee to replace existing directors or management with the beneficial owner's nominees.

Question. In addition, wouldn't it be necessary to preclude the trustee from selling off major company assets so as to maintain the organizational *status quo* pending action on a full "long-form" application?

Answer. As noted in response to question 2a, I believe that a trustee should be required generally to maintain the *status quo*. This would seem to include preserving the assets. I cannot comment more specifically because this question may be at issue in the CBS/Turner matter, which is restricted and adjudicatory.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 9, 1985.

Senator JOHN DANFORTH,
Chairman, Committee on Commerce, Science, and Transportation,
Washington, DC.

DEAR SENATOR DANFORTH: I would like to lend my support for the reappointment of Dennis R. Patrick to the Federal Communications Commission.

I understand that Commissioner Patrick is scheduled to appear before the Committee on the 11th of July in order to gain Senate confirmation of the President's reappointment. It is my hope that Commissioner Patrick will be approved by the Committee and then confirmed by the Senate as a whole.

In the year and a half that Mr. Patrick has been a member of the Commission, he has demonstrated his ability to analyze and resolve the complex issues which so often confront the Commission. In doing so, he displays an appreciation of, and concern for, the consequences of the Commission's actions on state and local governments, private industry, individual users of communications services, and others affected by the Commission's actions. Commissioner Patrick has exhibited the personal integrity and judgment we look for and expect in government officials.

I urge you to support Commissioner Patrick's reappointment for a seven-year term as a member of the Federal Communications Commission.

Best regards,

GENE CHAPPIE,
Member of Congress.

REBECCA GERNHARDT RANGE, TO BE ASSISTANT SECRETARY OF TRANSPORTATION FOR GOVERNMENTAL AFFAIRS AND JENNIFER ANN HILLINGS, TO BE ASSISTANT SECRETARY OF TRANSPORTATION FOR PUBLIC AFFAIRS, DOT

WEDNESDAY, JULY 17, 1985

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 2:06 p.m., in room SR-253, Russell Senate Office Building, Hon. Ted Stevens presiding. ing.

Staff members assigned to this hearing: Macky Ayers, professional staff member; and David St. John, minority professional staff member.

Senator STEVENS. We will first proceed with the nomination of Rebecca Gernhardt Range. And for the benefit of all concerned, and particularly my good friend from Kentucky, let me introduce to you my former chief of staff, who is now at the Department of Transportation.

Senator FORD. I wondered what was causing your demise.

You have lost all your good help.

Senator STEVENS. I surely missed her last December, I will tell you that.

I will submit the biographical sketch and the questions and answers received for the record.

[The biographical sketch and questions and answers follow:]

BIOGRAPHICAL SKETCH OF REBECCA GERNHARDT RANGE

Address: 2130 Leroy Place, Northwest, Washington, D.C. 20008

Date of Birth: October 23, 1956;

Place of Birth: Mansfield, Ohio.

Marital Status: Married to James Davis Range.

Children: No children for Rebecca Range; two children of Jim Range—Kimberly Range, age 18; Allison Range, age 18.

Education: DePauw University, Greencastle, Indiana, 1972-1976, Bachelor of Arts Degree; Catholic University, Columbus School of Law, Washington, D.C., 1977-1981, Juris Doctorate.

Employment Record: February 1984 to Present: Department of Transportation, Office of the Secretary, Counselor to the Secretary, 400 7th Street, Southwest, Washington, D.C. 20590; August 1983-February 1984, Department of Transportation, 400 7th Street, Southwest, Washington, D.C. 20590, Deputy Assistant Secretary for Governmental Affairs; February 1977-August 1983, The Honorable Ted Stevens United

States Senate Washington, D.C. 20515 Chief of Staff, Legislative Director, Legislative Assistant, Staff Assistant; July 1976–February 1977, The Honorable John Ashbrook, United States House of Representatives, Washington, D.C. 20510, Staff Assistant.

Government Experience: (See above).

PREHEARING QUESTIONS OF SENATOR HOLLINGS AND THE ANSWERS

Question 1. During your years of experience as a Congressional staffer, you no doubt have had occasion to work closely with Executive Branch agencies. With this in mind, what philosophy would you bring to the job of Assistant Secretary for Governmental Affairs?

Answer. Because of my experience as a Congressional staffer, I am very much aware of the needs of Congress for timely and accurate information to facilitate the development of good public policy. Because of the complexity of transportation issues, it is very important that the Department work closely with the Members and their staffs to provide programmatic, technical and statistical assistance on a timely basis. Therefore, one of my top priorities will be to insure that my office is fully responsive to Congressional needs and requests.

Question 2. As transportation legislation moves through Congress, Members of the House and Senate often need to confer personally with the Secretary. Do you believe there currently is sufficient accessibility to the Secretary? Is there room for improvement? If so, what step would you take to improve the level of access?

Answer. Over the past two years I have served as Deputy Assistant Secretary for Governmental Affairs and as Counselor to the Secretary in her immediate office. During that time I have come to appreciate the high degree of importance that Secretay Dole places on conferring, consulting and working closely with Members of Congress on transportation issues. Because of her policy of open communication, I believe she has been and continues to be accessible and responsive to Members of Congress. As Assistant Secretary for Governmental Affairs, I will work to maintain the close communication which is fundamental to the Secretary's approach to public service.

Question 3. What steps will you take, if confirmed, to increase bipartisan participation of the development of national transportation priorities?

Answer. If confirmed, I will continue to carry out the Secretary's policy of working closely with all Members of Congress regardless of party affiliation. As a former Hill staffer, I am well aware of the importance of building bipartisan support for legislative initiatives and am fully cognizant of the need to continually strengthen bipartisan cooperation.

Question 4. If confirmed as Assistant Secretary, what legislative or policy efforts would you recommend the Secretary initiate or continue?

Answer. If confirmed, I would recommend that the Secretary continue her present legislative and policy priorities. These include such initiatives as enhancing safety across all modes of transportation, redefining the federal role in transportation funding, increasing the contribution of user fees, continuing transportation deregulation, returning Conrail to the private sector, revitalizing our merchant marine, and transferring Dulles and National Airports to a regional authority. The Department is also formulating initiatives to reauthorize the Federal-Aid Highway Program, the mass transit program and those programs administered by the National Highway Traffic Safety Administration. Further, we would expect additional safety initiatives, both regulatory and legislative, to develop as a result of the ongoing work of the Secretary's Safety Task Force.

Question 5. If confirmed, what do you envision your role to be in the Department's current effort to sell Conrail to the Norfolk Southern Railroad?

Answer. If confirmed, I would expect to work with Congress to implement all aspects of the Secretary's legislative program. The return of the federally owned freight railroad, Conrail, is a critical part of this program for the 99th Congress. This is a complex issue requiring substantial consultation with Congress and state and local governments in the Conrail region. Inasmuch as the Assistant Secretary for Governmental Affairs also has responsibility for the coordination of intergovernmental affairs at the Department, if confirmed, I would work to maintain a close relationship with all levels of government to provide them with the information they need to assess the impact of the proposed sale on their localities.

Question 6. What is your assessment of the operations of the Office of Consumer Affairs, which was transferred to the Assistant Secretary for Governmental Affairs with the sunset of the Civil Aeronautics Board? Has DOT adequately responded to citizen complaints under the new order? What improvements would you suggest in this area?

Answer. The Department has significantly upgraded the consumer affairs function formerly handled by the CAB. While the CAB accepted only written complaints which were processed through a series of form letters to consumers and airlines, often taking months to resolve, the Department now encourages consumers to call the office directly for problem resolution.

Our analysts telephone expeditors at the airlines, who prioritize the handling of DOT-referred complaints, and call back the consumer with the resolution. The entire system has also been computerized, resulting in more efficient complaint handling and faster response time. Of the 1,750 complaint cases filed by telephone during the first quarter of 1985, 99% were resolved as of April 1st, compared to only a 68% resolution of written complaints received during this same period and processed under the old system. The transition from the old system to processing both telephone and written complaints by telephone was completed on April 1st. The Department plans to improve the consumer function further by developing, in cooperation with the airlines, a consumer education program.

Senator STEVENS. Do you have a statement you wish to present?

STATEMENT OF REBECCA GERNHARDT RANGE

Ms. RANGE. I do have a statement for the record, which I would like to have included.

[The statement follows:]

STATEMENT OF REBECCA GERNHARDT RANGE

I am pleased and honored to appear before the Senate Commerce, Science and Transportation Committee as the President's nominee to be Assistant Secretary of Governmental Affairs for the Department of Transportation. My appearance here today is in no small part due to the distinguished senior Senator from Alaska, whose guidance and support have helped to prepare me for the challenges that this position will present if I am confirmed.

I would like to outline briefly for the Committee why I believe I am qualified and prepared to fulfill the demanding responsibilities of this job. As is detailed in the outline of background information that I have furnished at the Committee's request, my entire profesional career has been focused on Congress and the legislative process.

Over the course of seven years on Capitol Hill, working in a range of jobs in the House and the Senate, I have developed a strong understanding of the dynamics between Congress and the Executive Branch. I have witnessed firsthand the strengths and weaknesses of various agencies and the components which have made for constructive relations with the Congress, and the development of sound public policy. This cumulative experience, obtained in service for both majority and minority offices—coupled with two years of working closely with the Secretary of Transportation—have provided me with a unique perspective to assume this new responsibility.

I am acutely aware of the need to be responsive to Congressional requests for information, to follow through in the provision of technical and programmatic assistance, and to ensure that the information is reliable, accurate and provided in a timely manner.

In addition, I am sensitive to the need for Secretarial involvement in the legislative process—a role which Secretary Dole takes very seriously. I have worked quite closely with her over these many months and know the premium she places on consulting, advising and working with all Members of Congress and their staffs to facilitate effective legislative action on transportation issues. If confirmed, I would reinforce the Secretary's views on accessibility and would strive to enhance these positive qualities at the Department.

In my tenure on the Hill, I also came to appreciate the need for bipartisan cooperation and interaction. Legislative action requires give and take, consultation, and consensus-building. What better place to learn this than in a leadership office in the United States Senate. Since coming to DOT, I have found this to be central to Secretary Dole's view of public service and her approach to working with Congress. If confirmed, I will strive to continue the bipartisan cooperation the Secretary has fostered in her years at the Department.

Let me conclude by saying that the Secretary has a full agenda of legislative and policy business to conduct with the 99th Congress. Many of these issues—like the sale of Conrail, reauthorization of the Surface Transportation Assistance Act, redefining the federal role in transportation, and further deregulation—are complicated and will require long hours of consultation and communication with the Congress. Secretary Dole is fully committed to providing Congress with the tools and assistance needed to work constructively with the Congress as it proceeds with the consideration of these difficult issues.

Thank you for this opportunity to discuss my qualifications. I would be pleased to try to respond to any questions Members may have.

Senator **Stevens**. If you include that, I will include the questions that we would like to have you answer for the record.

Ms. **Range**. That is a deal.

Senator **Stevens**. I would ask my good friend if he has any questions.

Senator **Ford**. Well, it is obvious she does not take long to take a look at a hot horseshoe; therefore, I have no questions.

Ms. **Range**. Thank you.

Senator **Stevens**. I am delighted to see you here, Rebecca, and I am delighted to be in a position to recommend your confirmation, and we will see that it gets to the floor forthwith.

Ms. **Range**. Thank you very much.

Senator **Stevens**. Thank you. You will have to answer the questions, though.

Ms. **Range**. Yes, sir.

[The following information was subsequently received for the record:]

Posthearing Questions of the Majority and the Answers of Ms. Range

Question. At the Surface Transportation Subcommittee's May 17 hearing on the "Surface Freight Forwarder Deregulation Act of 1985" (S. 1124), Deputy Assistant Secretary of Transportation Phil Haseltine expressed the Administation's support for this legislation. To what extent will the Department be working to secure enactment of this bill?

Answer. The Department believes that there is no justification for the continued regulation of freight forwarders. There is ample competition within that industry, as well as from trucking companies and unregulated shipper associations, to ensure adequate service at lower rates. It is the intention of the Department to work aggressively with you and your Committee to secure enactment of legislation consistent with S. 1124.

Question. Do you expect the Department of Transportation to submit to Congress legislation to deregulate the trucking industry? If so, how soon?

Answer. Yes, I do. The President stated, "We will support further deregulation of the trucking industry," in his 1985 State of the Union Address. Draft legislation is currently being discussed by the affected agencies within the Administration. Following completion of this interagency coordination process the proposal will be transmitted to Congress—hopefully within the next several weeks.

Question. To what extent do you believe the government should be involved in the regulation of automobile safety?

Answer. The government has had a strong role in automobile safety since the enactment of the National Traffic and Motor Vehicle Safety Act of 1966. Many of the regulations issued under that Act have proven effective in reducing accidents, deaths and injuries on the highway. In addition, the Act authorizes the government to order the recall and remedy of vehicles determined to have safety defects. In my view, the statutory scheme in its current form is appropriate and should be continued.

Question. What is your opinion of the effectiveness of passive restraints?

Answer. I agree with Secretary Dole's 1984 decision on occupant protection. Specifically, I believe that passive restraints can provide effective protection for occupants, especially in frontal collisions. They offer the advantage of being available without the need for action by the occupants. With regard to airbags, I also agree with the Secretary that an airbag should be used with a lap belt to provide the same effectiveness in all accidents as the lap and shoulder belt.

Question. What do you see as the most important issue facing the Department?

Answer. Maintaining a safe transportation environment is Secretary Dole's highest priority. Deregulation and technological advances have led to many changes in the transportation industry. To assure that the Department's safety responsibilities are not compromised in this changing environment, Secretary Dole ordered a review of each of the Department's safety programs. She specified that the review should cover licensing and certification, registration, operations, inspection and enforcement, and emergency response; and she set up a task force to conduct the review. The task force completed its review of the Federal Aviation Administration's flight standards programs and recommended improvements in timeliness, uniform interpretation of regulations and policies, internal and external communication, and direction from FAA Headquarters to the regions. The Secretary directed the FAA to implement the task force's recommendations. The task force is now studying the hazardous materials transportation programs of the Research and Special Programs Administration and the safety inspection and enforcement activities of the Federal Railroad Administration and will be meeting with interested parties on these issues over the next several weeks.

Question. Do you believe that motor carrier regulatory reform—both truck and bus—has been a success?

Answer. The Motor Carrier Act (MCA) of 1980 provided more flexible ratemaking and liberal entry and eliminated antitrust immunity for single-line rates. Although the Act fell considerably short of total truck deregulation, there is an enormous body of evidence that the Act has had substantial, positive effects on the trucking industry and benefits for its consumers. With the freer entry permitted under deregulation, the number of firms with Interstate Commerce Commission operating authority has grown dramatically—from roughly 18,000 in 1980 to 33,000 in 1983. Selected case studies conducted by DOT show that minority carriers have benefited from the MCA, particularly its eased entry provisions.

New price and service options have been introduced. Established carriers have become more efficient and innovative by restructuring routes, reducing empty backhauls, providing simplified rate structures, and offering shippers incentive to move freight more efficiently. Shippers now play a far more active role in the distribution process. They have a hand in negotiating rates and a greater choice in selecting carriers. They can consolidate shipments themselves or through third parties, contract for particular services, and work with carriers to design transportation services best meeting overall needs. Brokers and shipper associations are consolidating an increasing number of less-than-truckload shipments, "topping off" loads, and otherwise helping the trucking industry to operate efficiently.

In terms of service to small communities, our most recent research continues to support the conclusion that the quality and quantity of service have not diminished for the vast majority of shippers and receivers surveyed in this investigation. In fact, the number of competing carriers in rural areas has increased, on balance, since the passage of the MCA. For most shippers, little has changed since 1979: there is a heavy dependence on United Parcel Service for small package shipments; considerable use of private carriage; and generally acceptable levels of freight service available from a variety of ICC certified carriers. Although rates have increased somewhat (for the typical rural shipper), service quality and the level of competition among carriers are both higher. It should be noted that improvements in service quality and competition were reported much more often than deteriorations, regardless of the remoteness of the shipper and receiver's location.

In a survey of rural shippers, 98 percent of all respondents thought that post-deregulation truck service was as good as or better than before. Moreover, shippers and receivers in very remote areas were as satisfied with their truck service as were small community respondents in more accessible areas: 97.3 percent of the rural shippers and receivers—those more than 25 miles from an Interstate highway—reported that overall service quality was as good as or better than pre-deregulation service.

The Bus Regulatory Reform Act appears to have had many of the same effects on the bus industry. Competition has resulted in lower rates on some routes and more discount fares. Although some fares have gone up, the increase has not been dramatic. And the disparity between interstate and intrastate rates is diminishing.

Liberal entry policy has caused new and existing carriers to apply for authority to include new stops on routes where they formerly were precluded from offering service. Entry applications through August 1984 requested authority to provide service to over 900 new or previously abandoned points. Although the ICC found service discontinuances at 1,300 points, many of these were "flag stops" with one-way, less-than-daily or on-demand service. Over 400 of these are now being serviced because of new entry.

Question. There are several openings on your immediate staff for congressional relations assistants. When do you expect to have your office at its full complement?

Answer. In my view, Congressional Relations Officers can and should play an important role here in the Department and on Capitol Hill. I have sought to find the most technically qualified professionals to fill these positions and expect the office to be at its full complement within the next several weeks.

Question. The transfer of National and Dulles airports from federal control to a regional governing authority is shaping up to be one the most controversial aviation issues of this legislative session. Can you please enumerate a few of the most persuasive reasons why Congress should support the Administration's plan to transfer the airports?

Answer. The Administration recognized that day-to-day airport management of two of the nation's major airports is no longer an appropriate responsibility of the federal government. All other major commercial airports are managed by local- or regional-based public entities, which can be much more responsive to the economic and environmental needs of surrounding communities. Congress and the Executive Branch are not equipped to do the job as well.

The most important reasons to transfer the airports to local control are (1) to improve service for the community and visitors to the capital, (2) to remove them from the federal budget process and its entanglements, and (3) to take advantage of the community consensus reflected in the Holton Commission Report that these facilities should be their responsibility.

The substantial capital improvements needed at National and Dulles, currently submerged in the federal budget and the deficit issue, could be undertaken swiftly if a regional authority were in place as proposed by the Administration. The "hubbing" operations beginning to appear at Dulles as a result of airline deregulation will be hobbled without substantial terminal modernization.

Growth in combined service capacity at National and Dulles would benefit Congress, the Washington area, and all who come to visit the seat of government. Service growth is so great that neighboring BWI Airport would not be injured by allowing Dulles expansion.

A large part of the problem is inclusion of the airports as separate items in the federal budget process. Congress need not be bothered with the "mirco-management" airport issues that crop up in each year's budget. The federal budget would be better served by eliminating annual appropriations for the airports and reducing federal employment by about 700 positions. Like other airports of this size, these airports would be eligible for significant Airport Improvement (AIP) grants, thereby assuring that taxes collected from aviation users of these airports would be spent as intended. As noted above, badly needed major projects, such as the proposed Dulles mid-field terminal, would not be caught up in the issue of deficit control.

The best sign that the bill represents a good balance for the future of the airports is that most Holton Commission members, Virginia and District representatives in Congress, and the Air Transport Association, Regional Airline Association, and NBAA (business aircraft users) all support it. The consensus will not continue indefinitely.

The federal interest in the airports as a "geteway to the capital" will be preserved via the 35-year lease mechanism, providing Congress with an opportunity for full oversight of airport operations prior to transfer of the properties at the conclusion of the lease term. Property not used for its intended airport purposes would revert to the federal government, either during the lease or at the time of final transfer. The Administration proposes to "freeze" air carrier operations at National at current levels so that there would be no risk of losing convenient National service.

Question. David Stockman, the outgoing Director of the Office of Management and Budget, was said to be the Administration's chief proponent of the plan to allow air carriers to buy and sell airport "slots." Airport slot sales have received criticism from a number of sectors. Now that Mr. Stockman is leaving, is it possible that the Department of Transportation will revise its position on buying and selling slots?

Answer. As you know, the Department issued an NPRM proposing a buy/sell mechanism for the transfer of slots at the high density airports in June 1984. Public hearings were held in three regions and extensive comments were submitted to the docket. The Department has been carefully assessing these comments and discussing the issues with OMB. We have not yet reached a decision. However, we hope to by the end of the year.

Question. It is rumored that the Administration will support the concept of "defederalizing" the nation's airports when the Airport and Airway Improvement Act of 1982 is reauthorized next year. Is this so? Can you tell the Committee more about the Department's study of "defederalization," now one-and-a-half years overdue?

Answer. At the present time, the Department has no plans for proposing defederalization legislation as part of next year's reauthorization. The study of defederalization is essentially complete and is in the final stages of review and revision; we plan to submit the study when this process is completed.

Question. This spring the Aviation Subcommittee held a hearing on computer reservation systems (CRS) in the airline industry. One allegation made by the non-vendor airlines is that the fee they are charged by the vendor carriers bears no relation to vendor costs. Both vendor and non-vendor carriers have now prepared detailed studies purporting to show that such fees are or are not cost-based. The results are extremely contradictory. Should the Committee request the Department to review and comment on these conflicting findings?

Answer. On June 15, 1985, Senator Warren Rudman added language to a supplemental appropriations bill (H.R. 21577) which would require the Department of Justice to study competitive problems with CRSs and to recommend options to deal with those problems. DOJ has advised us that it expects to examine CRS fees as part of this study. The Justice Department report is to be submitted within 120 days after the bill was signed into law. (It was signed on August 15, 1985.)

On July 30, 1985, the Aviation Subcommittees of the House Committee on Public Works and Transportation and the Senate Committee on Commerce, Science and Transportation asked the General Accounting Office to conduct a study of the profitability of the CRSs of United Airlines and American Airlines. The Subcommittees specifically requested an evaluation of the studies by vendor and non-vendor carriers that you referred to. This report is due November 30, 1985.

The Department feels that it would be premature to comment on the conflicting industry studies of CRS profitability while GAO is in the process of evaluating them. DOT anticipates reviewing the GAO and DOJ reports.

Senator STEVENS. Now we have the nomination of Jennifer Hillings to be Assistant Secretary for Public Affairs.

Let me introduce to you the daughter of a very old friend of mine.

[The biographical sketch and questions and answers follow:]

BIOGRAPHICAL SKETCH OF JENNIFER ANN HILLINGS

Address: 3317 N Street, N.W.; Washington, D.C. 20007, U.S. Dept. of Transportation (Office), 400 7th Street, S.W. Suite 10414, Washington, D.C. 20590.

Date of bith: October 7, 1954, Washington, D.C.

Marital status: Single.

Children: None.

Education: University of Southern California; Los Angeles, CA, B.A.; 1977.

Employment record: August 1976 to November 1976 President Ford Committee; Century Blvd, Los Angeles, CA; press relations; December 1976 to December 1977 Peck & Associates; Eighth Street, Los Angeles, CA; public relations; December 1977 to February 1979 Palisades Communication; Sunset Blvd, Los Angeles, CA; public relations; August 1980 to November 1980 California Reagan-Bush Committee: Century Blvd., Los Angeles, CA; press relations; February 1979 to February 1981 Senate Republican Leader's office; State Capitol, Sacramento, CA; press relations; February 1981 to April 1983 Republican National Committee; 310 First St., S.E., Washington, D.C.; press relations; April 1983 to October 1983 White House Conference on Productivity; Washington, D.C.; public affairs, October 1983 to March 1984 Dept. of Commerce; Washington, D.C.; public affairs; March 1984 to April 1985 Dept. of Interior; 2800 Cottage Way, Sacramento, CA; public affairs; April 1985 to Present Dept. of Transportation; 400 7th St., SW Washington, D.C.; public affairs.

Government experience: (See above).

PREHEARING QUESTIONS OF SENATOR HOLLINGS AND THE ANSWEPS

Question 1. What experiences make you qualified to hold the position for which you have been nominated? The committee is interested in your background in transportation as well as public affairs.

Answer. I feel extremely qualified to hold the position of Assistant Secretary for Public Affairs because I have worked in the filed of public affairs in both state and federal government. In previous positions, I have become familiar with transportation issues, particularly in the great state of California. More recently, in the past three months as a Special Assistant to the Assistant Secretary of Transportation and as an Assistant Secretary Designate, I have worked with transportation agency heads and have been briefed on their programs.

Question 2. As you are well aware, the post of Assistant Secretary of Transportation for Public Affairs was created upon the confirmation of your predecessor less than two years ago. How has the creation of this post benefited the Department? Specifically, what improvements have been realized?

Answer. Elevating the Public Affairs Position to the Assistant Secretary level has benefited the public because the person charged with keeping the public informed has had better access to information within the Department. This has enabled the Department to better educate and inform the public of its activities. It also has better insured that the public information aspects of decisions have been incorporated into the decision process.

Question 3. If you are confirmed, what philosophy will you bring to the post of Assistant Secretary of Transportation for Public Affairs? Can communication between the Department and the public be improved? If so, how?

Answer. I will bring a philosophy of the public's right to know the government's business to the post of Assistant Secretary of Transportation for Public Affairs. Communication between the Department and the public is excellent. If confirmed, I would hope to continue this very good dialogue and improve upon it if needed.

Question 4. What steps would you take as the Assistant Secretary of Transportation for Public Affairs to improve coordination between your office and the modal administration?

Answer. I would continue to discuss issues with each of the modal administrators and their public affairs representatives on a day to day basis. It is critical the Assistant Secretary for Public Affairs work closely with each of the modes in order to best communicate our activities to the public.

Question 5. In brief, what is your assessment of the media's performance in recent years, particularly its coverage of government affairs? Do you believe that the media has a pronounced political bias? Do you feel that the relationship between the media and public officials is a naturally adversarial one?

Answer. I would assess the media's performance of covering government as very good. No, I do not feel the media has a pronounced bias; the full spectrum of political thought is represented by different elements of the media. I would characterize the relationship between the media and public officials as an onging interaction between two groups to keep the public informed. As you know, we have a wide range of consumer and safety issues in all our modes at the Department and it is important to disseminate our information through the media.

Senator STEVENS. Senator Wilson.

STATEMENT OF HON. PETE WILSON, U.S. SENATOR FROM CALIFORNIA

Senator WILSON. Thank you. There is no more honored place for it.

Mr. Chairman, I thank you and I ask the indulgence of colleagues who are familiar with the difficulty of trying to be in more than one place at one time.

I am honored to have the privilege today to appear before you to introduce to the committee Jennifer Ann Hillings. I will not take great time going over her curriculum vitae; it is before you, and I think it speaks eloquently as to her qualifications and the reasons why she has been nominated by President Reagan to serve as Assistant Secretary of Transportation for Public Affairs.

Having the curriculum vitae before you, you are well aware of the breadth of her experience in a wide range of public affairs positions. She will come to the Department of Transportation after extremely successful assignments as the media coordinator for the Western United States for the Department of the Interior, and as the Deputy Director of Public Affairs for the Department of Commerce.

Prior to that time she had served as press secretary to the White House Conference of Productivity in 1983. In short, Mr. Chairman, Miss Hillings' decade of experience in public affairs and her extremely successful work in the White House, at the Department of Commerce, and the Department of the Interior highlight her ability and offer you evidence of the contribution that she will make to the Department of Transportation as the Assistant Secretary for Public Affairs.

She has already as a proud alumna of the University of Southern California won distinction as one of the outstanding alumna. I add only that as a sometime rival of that institution I am, however grudgingly, compellted to admit that she deserves distinction not only from her own alma mater but from mine, and I urge you to bring her nomination to the full committee and to the full Senate with the strongest recommendation of approval.

And I heard the chairman's opening gambit as I came in. Mr. Chairman, I think we are compelled to recognize that we have come to a time when women and their skills and talents have not only emerged as useful but as essential to the government of the United States, and this is an example where we can fully take advantage of that talent and do so with pleasure.

Miss Hillings is extraordinarily able and I think that this assignment will not be the last in a distinguished list of achievements for someone of admittedly tender years. We expect great things of her in the future and I thank you.

Senator STEVENS. Thank you very much.

Do you have a statement to make?

STATEMENT OF JENNIFER ANN HILLINGS

Ms. HILLINGS. Yes, I have a statement I would like to submit for the record and would be happy to take any questions.

Senator STEVENS. Very well, we will be happy to have that statement in the record.

[The statement follows:]

STATEMENT OF JENNIFER ANN HILLINGS

Thank you, Mr. Chairman. I am deeply honored to appear before you today as the nominee for Assistant Secretary for Public Affairs at the Department of Transportation. Shortly after the President submitted my name to the Senate on June 14, I had an opportunity to sit down and think about my qualifications and my vision for the future.

Let me say at the outset that I feel my background in public affairs in both state and federal government—including positions with the U.S. Departments of Commerce and Interior—provides a solid foundation for the task ahead, should you choose to recommend my confirmation.

I have been on board at the Department of Transportation since April as Special Assistant to the Assistant Secretary and more recently as Assistant Secretary-designate. I have had an opportunity to become involved with the issues, to work with each of our modal administrators and to understand the Department of Transportation. I am very excited about transportation issues facing us today and in the years ahead. I find them stimulating—challenging—and without exception, very people-oriented. Because transportation is a people-oriented Department the attitude and philosophy and qualifications of Assistant Secretary for Public Affairs are very important. Transportation issues affect every consumer. Whether it's cars, planes, trains, ships or the like—the public's interest is there and the Assistant Secretary for Public Affairs is key to communicating these issues to the public. The Department is continually on the move to provide transportation services and our nation's transportation infrastructure remains the best in the world. From the sale of Conrail to the private sector to transportation safety and international aviation security, it is imperative that the public know what we do and why we do it. I pledge to you to keep them informed.

I am equipped by education and experience to make a real contribution to the success of these transportation issues and therefore the future of our country.

My philosophy of public affairs is to work with the news media—both electronic and print—to inform the public. To work with the Congress and to work with other agencies and Departments in the executive branch to ensure that the public knows and understands their government in Washington.

Let me add one final note about the cabinet officer I will serve. Secretary Elizabeth Dole is one of the most dynamic leaders in our nation today. It will be a distinct honor and privilege to be a part of her contribution to the success of our government.

Senator FORD. This is getting to be a little too much.

Senator STEVENS. I have to say that we are awaiting another Senator who would like to be here to make a statement for the record.

Senator FORD. Well, Mr. Chairman, I just move that we accept his statement whenever he gets here.

Senator STEVENS. We are going to give the Senator a chance to put very laudatory remarks in the record at this point in your behalf and to wish you well in your assignment.

Ms. HILLINGS. OK.

Senator STEVENS. I want to state for the record that I personally reviewed the FBI report on the nominees and I am most pleased to say that each report is a very exemplary report and offers no cause for anyone to pursue any inquiry further into your character or background, and I would yield, if my friend from Wisconsin has any comments.

We are now considering the nomination of Ms. Hillings to be the Assistant Secretary for Public Affairs.

Senator KASTEN. Mr. Chairman, thank you very much. I am not going to be able to stay. I just wanted to come briefly to indicate my support for both of the nominees here today.

Thank you, Mr. Chairman.

Senator STEVENS. Thank you very much.

Senator FORD. Senator, I might say this is going to be the briefest hearing you have ever attended.

You will not have to get in to insert your statement and run so you will have a perfect record for attendance.

Senator KASTEN. Then I will be able to make my 2:15 appointment.

Senator FORD. You have got every possibility.

You know, Mr. Chairman, I think that we better be a little careful here with the two nominees, and I say we have had a great deal of humor with it, but very seriously these are two very fine individuals. We understand their background and their recommendations. I do not want the people who are viewing this to say we take these two individuals lightly. We do not do that. They are qualified and I think have the background qualifications to do a good job. And we have viewed the FBI reports and they are, as the chairman has explained, very fine. So under those circumstances I want to make that clear for the record, Mr. Chairman, without the wrong kind of perception or imagery here today.

Senator **Stevens**. I do appreciate your comment. I was going to tell the two young ladies that perhaps we have turned this into a hearing of equal rights. In view of the fact that the Secretary and now two of her principal officers are female, perhaps we ought to look into this question of discrimination.

Unless someone else has anything further to come before the committee, I have nothing else to say, other than to tell your father I was always jealous of his red Thunderbird.

Ms. **Hillings**. I will do that, Senator. Thank you.

Senator **Stevens**. Thank you very much.

Senator **Wilson**. Mr. Chairman, I was hoping to spare Miss Hillings from any identification with her father. That is why I did not bring up my association with him.

Senator **Stevens**. Thank you very much.

Ms. **Hillings**. Thank you.

Senator **Stevens**. And the record for Mrs. Range will have the same responses to the questions propounded by Senator Hollings, plus her own background statement and her statement in full.

Thank you.

[Whereupon, at 2:15 p.m., the committee adjourned, to reconvene upon the call of the Chair.]

ANTHONY J. CALIO, TO BE ADMINISTRATOR OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

THURSDAY, AUGUST 1, 1985

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m., in room 253, Russell Senate Office Building, Hon. John C. Danforth (chairman) presiding.

Staff members assigned to this hearing: Macky Ayers, professional staff member; Bob Eisenbud, staff counsel; and Jim Drewry, minority staff counsel.

The CHAIRMAN. Senator Gorton, who is going to be the chairman of this hearing, is detained for a few minutes, and he has asked me to begin the hearing on the nomination of Anthony J. Calio to be the Administrator of NOAA.

Senator Packwood, do you have a statement?

OPENING STATEMENT BY SENATOR PACKWOOD

Senator PACKWOOD. I wish to thank my colleague, Senator Gorton, for conducting this hearing today on the nomination of Tony Calio to be Administrator of the National Oceanic and Atmospheric Administration.

The National Oceanic and Atmospheric Administration is an agency in which this committee has very deep interest, and it is one that I have doubly strong feelings about. Many of the decisions made at NOAA in the management of our oceanic, coastal, and atmospheric resources have a significant effect on the economy of my home State.

The fisheries management activities at NOAA are vitally important to all coastal economies. In the Northwest, we have been working for years to develop a coordinated management, conservation and enhancement program for all our fish stocks, particularly our depleted salmon stocks. I am a strong supporter of NOAA's assistance in this area and for their role in commercial fisheries development. It is vital that NOAA maintain its activity in this area.

I also have an active interest in coastal zone management. In light of NOAA's responsibility for maintaining the well-being of the U.S. fishing industry and for ensuring the viability of living marine resources, it is important that NOAA play an expanded role in future Federal offshore leasing, exploration, and development decisions.

NOAA has also played a major role in the preservation of marine mammals. I have devoted much of my time to this issue and will continue to do so. I hope that NOAA will continue to support efforts to maintain and preserve our important living marine resources.

Finally, let me say that it will be particularly important that the next NOAA Administrator possess a high degree of technical and managerial skills in order to manage such a complex and important agency. It is essential that the next Administrator be firmly committed to developing a vigorous and active role for this Agency in the future. I look forward to the testimony of Mr. Calio today with the hope that it will demonstrate these qualities and his strong commitment to the agency's future.

The CHAIRMAN. We're happy to have two Senators today to present Mr. Calio, Senator Weicker and Senator Hatch. Gentlemen, thank you for being here.

STATEMENT OF HON. ORRIN G. HATCH, U.S. SENATOR FROM UTAH

Senator HATCH. Thank you, Mr. Chairman. We are delighted to be with you in front of this committee. Today I want to introduce to you a man who, 10 months ago, did not have my support for the job for which he has recently been nominated. I consider the job a vitally important one. The Administrator of NOAA oversees a vast network of programs supported by taxpayer dollars, and involving State and local communities.

My own home State of Utah and its populace rely on the successful functioning of the NOAA network in a number of ways. We are, for instance, very concerned with weather forecasting and, over the years, as you know, we have had our share of flooding and mud slides, particularly around the Great Salt Lake.

For its part, NOAA has, among other things, provided the people of Utah and the surrounding States with valuable information on severe weather and flood alertness. In fact, the NOAA regional weather office is located in Utah, and both the river forecast center and the State forecast center are in Salt Lake City.

As you can see, Mr. Chairman, I have more than just a passing interest in whoever might be nominated for the post of NOAA Administrator. And so when the word got out that Anthony Calio might be nominated for the job, I was a bit concerned.

I had heard allegations that Anthony Calio was not acceptable to the scientific community; that he was an abrasive manager; and that his vision of the future, as well as his involvement with the past, was limited to an abiding narrow interest in satellite programs.

Accordingly, I voiced my concern over these allegations in a letter to John Herrington, who was then the personel director at the White House. Now, I like to think that I am a fair and a reasonable man. And so, having made public my concern about certain people's assessment of Mr. Calio, I felt obliged to find out for myself whether there was any truth to the matter. And I am very happy to report to you that any and all talk about Tony Calio's supposed shortcomings is just that—supposition, based upon misconception.

The truth of the matter is Anthony J. Calio is an honorable man, who in many ways is uniquely qualified to serve as Administrator of the National Oceanic and Atmospheric Administration. I have met with Tony and have found that his interests go far beyond satellite hardware and the programs designed to foster that special field of high-technology science.

Indeed, I have come to find that Tony is just as committed to ocean resource development and conservation, to weather forecasting improvements, and to the entire complement of NOAA-related issues, as he is to satellite advances.

Moreover, in the course of my own inquiries, I have found considerable and unqualified support for Tony Calio among scientists and program personnel. He is known as a no-nonsense manager, but one who understands and appreciates the complexities of NOAA's diverse manadate from the Congress.

He also has a close working rapport with both the Secretary and the Deputy Secretary of Commerce.

In short, the allegations I mentioned in my letter last August to the White House have simply not stood up, so I am happy that such fiction has not prevented Tony's nomination here today. NOAA does need someone who can manage, administer, and lead. And I believe, Mr. Chairman, that you and the other members of the committee will find, as I have, that Tony Calio has all of these qualities.

Now, he is in my opinion, after weighing all the facts, the right person for the job and I am very proud to appear before you today and offer my support for him today in this committee.

The CHAIRMAN. Senator Hatch, thank you.

Senator Weicker.

STATEMENT OF HON. LOWELL P. WEICKER, JR., U.S. SENATOR FROM CONNECTICUT

Senator WEICKER. Mr. Chairman, thank you very much. I am going to submit my formal statement for its inclusion in its entirety in the record.

I am here to enthusiastically support this nomination. And again, coming from a different point than my good friend Orrin Hatch, I had reservations—not so much with Tony Calio as with the administration's attitudes toward NOAA, as to the administration's commitment to NOAA.

In the last month, again like Orrin, I have done my own homework. I have had lengthy talks with Secretary Baldrige and lengthy talks with Tony Calio. And I am absolutely convinced that this team of Baldrige and Calio is going to keep NOAA in the prominent position which it deserves.

Now, Orrin mentioned self-interest. Believe me, I have self-interest in this program. Having been a part of a manned underwater research program with NOAA, having done four saturation dives, from 2 to 4 days' length on the bottom of the ocean floor, I want to make sure there is an Administrator that is making sure that the equipment is all right.

I realize that some of my conservative Republican friends would probably prefer to leave me on the bottom of the ocean floor, but that is not where I intend or care to have my demise.

Seriously, this has been a very lonely battle for a few of us in the Senate. Public attention has not been focused on NOAA. And yet, the future of this Nation—and now Orrin has referred to the atmospheres—I am going to refer to the oceans—the future of this Nation in terms of its energy, in terms of its food supplies, lies in those oceans. And it is not going to be enough when the emergencies hit in one or both of those areas to go dashing in and waste this greatest resource that we have, which is what the country will do if it has no knowledge. We will go in there and rape the oceans in ten years if we run out of energy and food on land. That is a resource that has to last for 10,000 years. And we have got to know it; we have got to know it as well as the earth we dwell in on land.

This is an enormously important agency to the future of this Nation. I cannot think of any position I consider more important than the one that is to be filled by Tony Calio.

In that regard, then, I talked to Tony at length. He is a tough administrator. But he is absolutely dedicated to seeing this job done, as is the Secretary of Commerce, Mac Baldrige. And I know there has been a lot of hoopla about this nomination, but I also have to report to you, being as intimately involved with the personnel at NOAA as I am, that that Agency without a head is adrift.

Now, Tony can only do so much as the designee. He can only do so much as long as there is a whisper here and a whisper there, and everybody is trying to undercut him. He needs to go in there as the permanent Administrator. And NOAA needs to get on with the job that has been entrusted to it.

So I enthusiastically endorse this nomination. I ask your committee to please act promptly on this nomination so that we might get on with the business of NOAA which, whether it is the featured business or not of this country, some day it will be. We cannot afford to slip back for the lack of an Administrator. You have got a good one in the offing here in the person of Tony Calio.

[The statement follows:]

STATEMENT OF HON. LOWELL P. WEICKER, JR., U.S. SENATOR FROM CONNECTICUT

Mr. Chairman, I would like to say a few words about Dr. Anthony Calio, and share with this committee some of his qualifications for the position of Administrator of the National Oceanic and Atmospheric Administration [NOAA].

First, I want to make it clear that I endorse Tony Calio's nomination. From my perspective, he has already proven what he can do.

It is no secret that I have been at odds with the Administration regarding some of its policy toward NOAA. And I have publicly defended that Agency against any efforts that have been made to weaken our longstanding resolve to wisely manage our ocean resources, and to extend our knowledge of the oceans and atmosphere.

I know that Tony Calio is extremely loyal to the Administration he serves. He is also someone who is willing to work with us to achieve the common goals we all share regarding the conservation and development of our marine resources.

To be sure, Tony and I have had our disagreements regarding what the proper role of the Federal Government is or should be on matters of ocean and atmospheric policy. Yet, when these disagreements have arisen, he has been a ready listerner, a skillful negotiator, and a concerned problem solver.

He has been able to do this because he has immersed himself in NOAA programs. He is a hands-on manager who takes the job of looking out for the American taxpayer quite seriously. Tony has a wealth of experience in dealing with large-scale, complex, scientific programs. His 18 years with NASA provided him with an impressive record for demanding excellence from those who work for and with him. and he leads by example.

Mr. Chairman, I really think we would be hard-pressed to find a better man for the position of NOAA Administrator. We have at hand a nominee who is knowledgable, and eager. He has already proven his managerial metal. And he has demonstrated to my satisfaction his willingness to consult with the Congress on important policy issues.

I urge my colleagues to support Tony Calio's nomination, to ensure a strong and vital NOAA now and in the future.

The CHAIRMAN. Senator Hatch, Senator Weicker, thank you very much.

Any questions of Senator Hatch and Senator Weicker?

[No response.]

The CHAIRMAN. Thank you both very much.

Senator FORD. I think the Senator from Connecticut explained it very well. He is not going to stay on the bottom of the ocean.

The CHAIRMAN. Sometimes the Senator from Connecticut has been seen in orbit.

Mr. Calio, thank you very much for being here. Do you have any initial statement that you would like to make? I will insert your biographical sketch in the record.

[The biographical sketch follows:]

BIOGRAPHICAL SKETCH OF ANTHONY JOHN CALIO

Address: 10112 South Glen Road, Potomac, Maryland 20854.

Date and place of birth: October 27, 1929, Philadelphia, Pennsylvania.

Marital status: Cheryll Madison Calio, married February 28, 1971. Elizabeth Mae Delp Calio, married July 28, 1951; divorced April 4, 1969.

Names and ages of children: Kathryn Ann Ratkus, June 25, 1954; Mary Elizabeth Calio, August 19, 1957; Barbara Jean Hauswald, September 30, 1959; Miriam Jane Calio, June 11, 1962.

Education: University of Pennsylvania, 1948-1953, B.A. 1953; University of Pennsylvania (graduate studies) 1953-1954; Carnegie Institute of Technology (graduate studies) 1956-1959; Stanford University, Palo Alto, California, (Sloan Fellowship) 1974-1975, diploma 1975.

Employment Record:

Deputy Administrator, National Oceanic and Atmospheric Administration, Washington, D.C., December 1981-Present;

Associate Administrator for Space and Terrestrial Applications, NASA Headquarters, Washington, D.C., October 1977-December 1981;

Deputy Associate Administrator for Space Sciences, NASA Headquarters, Washington, D.C., August 1975-October 1977;

Director of Science and Applications, Johnson Space Center, Houston, Texas, November 1969-August 1975;

Deputy Director of Science and Applications, Johnson Space Center, Houston, Texas, January 1968-November 1969;

Assistant Director of Planetary Exploration, NASA Headquarters, Washington, D.C., January 1967-January 1968;

Chief of Instrumentation and Systems Integration, NASA Headquarters, Washington, D.C., May 1965-January 1967;

Chief of Research Engineering, Electronics Research Center, NASA, Boston, Massachusetts, September 1964-May 1965;

Task Force Member, Electronics Research, NASA Headquarters, Washington, D.C., September 1963-September 1964;

Executive Vice President and Operations Manager, Mount Vernon Research Company, Alexandria, Virginia, February 1961-September 1963;

Chief of Nuclear Physics Section, American Machine and Foundry Company, Alexandria, Virginia, July 1959-February 1961;

Associate Scientist, Westinghouse, Pittsburgh, Pennsylvania, July 1956-July 1959.

Government experience: All experiences and associations in and with Federal, State or local governments have been as a civil servant as listed in item 7, except my appointment as Deputy Administrator (PAS).

Mr. Calio. Yes, Mr Chairman. I would like permission to submit my written statement for the record if you will, please. And I do have a few short remarks I would like to make to you and the other members of the committee.

The Chairman. All right. Can you speak directly into the microphone, please?

STATEMENT OF ANTHONY J. CALIO

Mr. Calio. Mr. Chairman, members of the committee, I am honored to have been nominated for the post of NOAA Administrator. NOAA is an nascent agency. It is an important agency, however, with many diverse responsibilities and challenges, and already it is a powerful instrument for good.

With your help and goodwill, I look forward to continuing that tradition.

NOAA has a close working relationship with the Congress. It has the support of the Secretary of Commerce, and it has a special obligation to all Americans, now and in the future. Furthermore, it is one of the country's efforts at increasing international cooperation in solving the problems which transcend normal national boundaries.

These responsibilities present a unique and important opportunity to promote the reasonable development of our oceans and atmospheric resources for both economic and social benefits. They offer us an opportunity to continue to improve our ability to predict the chemical and physical state of our oceans and atmosphere, with an eye toward saving lives and property; and they offer us the opportunity to take whatever steps might be necessary to conserve and protect the environment in which our national resources bound.

These are opportunities which I intend to seize in my role as NOAA Administrator. But to seize these opportunities requires a manager/administrator who has a clear understanding of the NOAA mission; who has a demonstrated ability to marshall the talent and facilities needed to achieve the goals of the NOAA mission; who has an unswerving commitment to the national interest; and who can negotiate and resolve the variety of interests which are inherent in NOAA's partnership.

I submit that my record of professional achievement, particularly during the past 4 years at NOAA, qualifies me for the position for which I have been nominated. I believe that I have made a good beginning in meeting the numerous challenges facing NOAA, and I am putting in place the professional talent and the scientific and technical wherewithal to ensure NOAA's continued success. And I look forward to following through on the many initiatives already underway.

If confirmed, I intend to confer often with Congress as these opportunities unfold and are played out, and I will seek your advice and your counsel in the many months and years ahead. I believe together we can turn this opportunity into a real accomplishment.

Thank you, Mr. Chairman. I am prepared to answer any questions you have.

[The statement follows:]

STATEMENT OF ANTHONY J. CALIO

Mr. Chairman, I consider it an honor to be nominated for the position of NOAA Administrator. The National Oceanic and Atmospheric Administration is an important agency with many and diverse responsibilities and challenges.

NOAA has a close working relationship with the Congress. It has the support of the Secretary of Commerce. And it has a special obligation to all Americans, now and in the future. Furthermore, NOAA is one of this country's finest efforts at increasing international cooperation on problems which transcend normal national boundaries.

These responsibilities present a unique and important opportunity to promote the reasonable development of our ocean and atmospheric resources for both economic and social benefits. They offer us the opportunity to continue to improve on our ability to predict the chemical and physical state of our oceans and atmosphere—with an eye toward saving lives and property. And they offer us the opportunity to take whatever steps might be necessary to converse and protect the environment in which our national resources abound.

But to seize these opportunities requires a manager/administrator who has a clear understanding of the NOAA mission; who has a demonstrated ability to marshal the talent and facilities needed to achieve the goals of the NOAA mission; who has an unswerving commitment to the national interest; and who can negotiate and resolve the variety of interests which are inherent in the NOAA partnership.

I submit that my record of professional achievement, particularly during the past four years at NOAA, qualifies me for the position for which I have been nominated.

When I arrived at NOAA, as the Deputy Administrator, I brought with me a wealth of experience as a director, manager, and administrator of large-scale, complex programs. I brought with me also an ever-growing familiarity with and appreciation for the scientific community. And, finally, I brought with me a developed skill for building strong technical and management teams.

I am proud of these attributes. They have served me well. And they continue to strengthen my conviction that an organization needs to pursue a goal of excellence because such a pursuit builds confidence and esprit de corps, encourages professional teamwork, and most importantly, accomplishes a great deal of good.

I have learned that the goal of excellence, however, is not achieved merely by embracing platitudes. It requires an intimate working knowledge of program activity and an understanding of the individuals charged with carrying out that activity.

Accordingly, I immersed myself in NOAA programs during the past four years. In the process, I obtained a broad and deep knowledge about NOAA's fisheries, weather, satellite, ocean and research and development components. And I both formulated and initiated policies affecting virtually every activity in these program areas.

During that time, I have gained also a knowledge of the capabilities of the NOAA people. For that is where the real strength of the agency lies. I have earned the respect of my managers in the process and have gained the reputation of being willing to roll up my sleeves and get down to business. To me, no problem is too small to work at too get a handle on things.

Of course, at the same time, I have continued to delegate responsibility and accountability whenever appropriate.

But to repeat, I have been "involved" with NOAA. I have faced its problems. I have gotten to know well its talented cadre. And together we have worked actively at resolving problems as they occur.

On the administrative side, I was instrumental in implementing a management-by-objective system under which management conducts monthly resource reviews to maintain meaningful control over financial operations and program activity. This system allows NOAA management to define more closely major projects, to track them, and to ensure both the timeliness and quality of NOAA efforts.

I helped develop and put in place a system of support services designed to increase the efficiency and to reduce the costs of NOAA operations. This system has been adapted to serve all Department of Commerce operations.

Furthermore, NOAA will have in place a new project-oriented budget for fiscal year 1987. This will provide all NOAA managers with a better understanding and control over NOAA's fiscal operations and will allow us to assess each project's performance, cost and schedule.

In addition, I have taken steps to centralize NOAA's operations in the Washington area. As I am firmly convinced that a consolidated NOAA family will be better able to serve the American public.

Each one of the steps I have taken was aimed at improving the fiscal accountability of NOAA activities. I believe the American taxpayer deserves quality service for the dollar. And I am determined to get more out of what we have available to us.

This type of thinking has also influenced my approach to program activity. During my nine months as the Acting Administrator, I have been working with NOAA line officers to upgrade our program capability. I am happy with the results thus far.

I have actively supported efforts to expand instrumentation aboard our fleet of ships. This will improve NOAA's ocean services. And under my leadership NOAA will continue to seek new and better technologies for understanding our ocean resources.

I have worked directly with NOAA managers to enhance our research capability by establishing a single class VI computer system for research purposes. This facility is now available to the entire NOAA family at a considerable cost savings, especially when compared to the original proposal.

NOAA has moved forward also with plans to upgrade our National Weather Service. At each step of the process, I have been an active supporter of new technologies such as NEXRAD, Profilers and other systems aimed at improving our weather forecasting techniques and efficiencies.

My management team at NOAA has invested considerable time in moving forward on a number of issues vital to the future of our fisheries. I have promoted the use of interdisciplinary sciences to aid in a better understanding of our fish resources. In particular, I have requested that NOAA personnel become better acquainted with modeling capabilities in order to increase our ability to better predict fish stocks.

In addition, I have met with the fisheries councils to urge them to become more involved in resource management and conservation. Toward this end, I initiated two separate studies focusing on ways to improve the Magnuson Act.

I have begun discussing with the National Academy of Sciences, specifically with the Ocean Science Board and the Atmospheric Science Board, to have them work with me and my managers to insure the scientific integrity and national priority of NOAA research.

I have been involved. Too, in negotiating the commercialization of Landsat. This was a lenghty process, demanding sensitive negotiations. And I look forward to completing this work with the Congress in the near future.

Mr. Chairman, I have tried—and I think successfully—to make NOAA sciences and services more responsive to the needs of the American people and to do this in the most cost effective manner consistent with the mandate of Congress as well as with the goals of administration in which I have served.

I believe I have set the stage for a modern and efficient NOAA. It is an agency whose readiness for managing the use and conservation of oceanic, coastal and atmospheric resources in a timely and meaningful way has been greatly enhanced. And it is an agency which is now even more capable of providing to the American taxpayer practical services and essential scientific information in an economical way.

I am pleased with the part I have played in managing the agency. And I am particularly pleased with the good working relationship I have developed with NOAA, with my counterparts in other Government agencies and with both houses of Congress.

All thing considered, this bodes well for NOAA's future.

To repeat, I am honored to have been nominated for the post of NOAA Administrator.

Thank you. I would be happy now to answer any questions you might have.

The CHAIRMAN. Thank you.

What is your view of the present state of NOAA, and what changes of direction or approach would you anticipate taking as Administrator?

Mr. CALIO. I believe NOAA is in good health as far as it's present state is concerned. However, I think there are many areas where we can strengthen and enhance our ability to carry out our role and better predict the state of the atmosphere and the oceans. Let me give you some examples of what we are trying to do—we are continuing to strengthen and modernize the National Weather Service by bringing on board new technology which is currently being developed, like the Doppler radar system and profilers which are able to give us better wind speeds and wind directions; we are putting in place advanced weather information systems to improve the quality and timeliness of weather forecasting predictions; we are increasing our research capability in climate forecasting; we are instrumenting our ships so they can provide better surveys in a more efficient and economical way by putting current technology on board.

These are some examples of projects which are underway and can be expanded to build and strengthen the integrity and the efficiency of the NOAA capability.

The CHAIRMAN. That sounds to this scientific amateur, scientific dunderhead really, as an expensive program that you have laid out. Your reputation is one as a very tough Administrator. Do you see yourself as being an advocate for NOAA's budget, or do you see yourself as being a cost cutter and a tight-fisted Administrator?

Mr. CALIO. I try to balance all of those. That is what makes me a tough manager. We must expand and develop our capabilities by using new technology. We have to do that within our current budgetary constraints. The programs I have just outlined are within the NOAA budget activities currently planned for the future.

The question is, can we get that job done with the current fiscal difficulties we have within this country? I believe we can do it—by looking at other places within the agency where we can tighten up on the operations, where we can gain efficiencies, and still live within the guidelines of the administration's budget.

The CHAIRMAN. Senator Packwood.

Senator PACKWOOD. Mr. Calio, the administration witnesses testified before both the Senate Foreign Relations Committee and this Commerce Committee that support for additional research and enhancement projects was essential to successful implementation of the recently signed and ratified U.S./Canadian Pacific Salmon Treaty.

Despite this testimony, the administration has not transmitted a request to Congress for funds.

One, do you believe that such funds are essential; and, two, will you seek those funds for both research and enhancement projects, even if the administration refuses to submit a request for funds?

Mr. CALIO. The answer to your first question is yes. The answer to your second question is, we have submitted the request to the Office of Management and Budget. We will continue within the Department to seek those funds to support our activities with respect to the salmon activities between Canada and the United States.

Senator PACKWOOD. And what will be your position if OMB says we decided to zero out those funds and will not request them?

Mr. CALIO. I will appeal the issue and try to build our case better within the Department and within the agency to support that activity. And I think we will be able to be successful, in cooperation with the Department of State, to see those funds made available.

Senator PACKWOOD. And if the funds are not requested, but the Congress provides them, then I assume you will administer them as we intend, despite what the administration might try to do to withhold spending.

Mr. CALIO. That is exactly right, sir.

Senator PACKWOOD. Second, the International Whaling Commission's ban on commercial whaling goes into effect this fall. The Packwood-Magnuson amendment defines certification to mean a certification that a foreign nation is conducting fishing operations or engaging in trade or whaling that diminishes the effectiveness of the International Whaling Commission.

Will you recommend that the Secretary of Commerce certify any nation that engages in trade—and that is imports or exports—of whale products taken after the effective date of the cessation?

Mr. CALIO. We have done that in the past, and we will continue to do that. We have taken action with the Soviet Union in the past 6 months. We have worked with Japan in trying to work out an arrangement where we can guarantee no more whaling on the part of the Japanese.

And, as you know, just the implementation of your amendment for the certification of a country does not necessarily stop them from whaling. They have several other alternatives. We feel very confident that the way we have worked an arrangement with Japan, what we have done with the Soviet Union, makes our stand very clear as far as a ban on future whaling activities is concerned.

Senator PACKWOOD. There are two issues. One involves nations that take the whales for their own domestic purposes. The other is engaging in trade, which is principally selling them to Japan.

Will you certify those nations that are engaging in trade, taking whales and selling them to Japan, in violation of the International Whaling Commission's conservation program?

Mr. CALIO. My answer to that is yes. And the reason I stopped to think about that for a minute is we had rather long discussions with the Japanese, so that they understood that if they exceeded the quotas that were set through their purchase of equivalent whales, they would also be subject to certification. They understood that.

Senator PACKWOOD. Well, they are, and the nation that provides them with it is, subject to certification. They just cannot contract this out to some other nation; if the other nation does the whaling and sells it to Japan, they are both in violation and should be certified in that case.

Mr. CALIO. We have had discussions with Japan to make sure that they do not buy or make any purchases that would exceed the quota.

Senator PACKWOOD. I understand the Japan part. I want to make sure that the nation is certified that also catches whales and sells them to Japan.

Mr. CALIO. The answer to that is yes again. I am trying to think of the cases involved. Yes.

Senator PACKWOOD. You testified before this committee on behalf of the administration in favor of eliminating funds for Federal grants to States under the Coastal Management Act.

This committee unanimously reported S. 959 which maintains funds for grants to States, and the House passed a similar bill Tuesday.

Will you recommend that such a bill be approved if it is sent to the White House?

Mr. **Calio**. I believe the Office of Management and Budget has had discussions with Members of Congress and had reached an agreement as to the freeze budget level of approximately $1.15 billion. With that was a consideration for the coastal zone management activities.

Along that line of thinking, I believe that the OMB would go along in approving the coastal zone management activities that were set forth. I realize there is a separate bill and there are other considerations that might come into play. Our view has always been that participating States and the private sector and the public should play a greater role in coastal management activities.

What is clear is the sense of Congress, and it is clear that we have to work at better cooperation between ourselves and the coastal States. My general reaction would be that we would proceed.

Senator **Packwood**. What is your personal recommendation going to be to OMB and the White House about S. 959 and the bill that passed in the House Tuesday that is very similar?

Mr. **Calio**. If consistent with our total budget objectives within the adminstration, I would recommend approval.

Senator **Packwood**. What does that mean? What if this is inconsistent with your total budget recommendation?

Mr. **Calio**. The administration's view is that we should keep our funding levels at a certain level.

Senator **Packwood**. So your view will be to veto the bill if it exceeds those recommended financial levels.

Mr. **Calio**. I would have to do that, sir.

Senator **Packwood**. Mr. Chairman, I have some other questions which I will submit in writing.

The **Chairman**. I am sure there will be a number of questions submitted in writing.

Senator **Packwood**. Thank you.

The **Chairman**. Senator Ford.

Senator **Ford**. Thank you, Mr. Chairman.

Mr. Calio, I think you have just been put between a rock and a hard place.

How can you be fired? Does the President just call you up and ask you for your resignation? Would that be good enough?

Mr. **Calio**. I think it would.

Senator **Ford**. I think you are going down that track right now when you are agreeing to do everything Congress asks you to do, and your boss tells you he does not want it done.

So I would be very careful, I think, at this time.

I have only one—that is an admonishment, I guess—one question.

You and I discussed, when you testified before this committee before, about the weather stations in Kentucky. At that time, you told me you supported that position and I don't guess you have changed your mind in any way, have you?

Mr. **Calio**. No. Even after that admonishment, no, sir.

Senator **Ford**. OK. I am just trying to protect you.

Mr. **Calio**. I understand that. I appreciate it.

Senator **Ford**. You have kept your word with me.

Mr. **Calio**. Yes, sir.

Senator FORD. And a man's word is his bond.

Mr. CALIO. It certainly is.

Senator FORD. And, in fact, you have added two additional employees at the Paducah Weather Station, which is very important. It is new and it is growing, and I want to thank you for that, and thank you for the interest in maintaining those two stations in Kentucky.

Mr. Chairman, I have no additional questions. It appears that you are going to have rafts of questions. I see the papers flipping up here. And they probably want them by midnight.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Pressler.

Senator PRESSLER. Well, Mr. Chairman, I strongly support this nomination. I have a few questions, but I would also like to make a very short opening statement.

I have examined all the background material on Mr. Calio in some detail and I have worked with him in the past on matters affecting the EROS Data Center, an important research center in my home State of South Dakota.

The Administrator of NOAA is an extremely important position. We in the Senate cannot take lightly our advice and consent responsibility in filling this particular position. In addition to my own review of Mr. Calio's record, I yesterday contacted Mr. Allen Watkins, the chief of the EROS Data Center, who has known Mr. Calio for the past 20 years. He has assured me that during his association with Mr. Calio, he has always known him to be a man of high integrity and sound judgment and believes Mr. Calio will do an excellent job as Administrator of NOAA. I have a letter from Mr. Watkins that I would like to be made a part of today's record.

With that, let me just say that I support Mr. Calio's nomination and would like to express my appreciation for his work in the satellite remote sensing area and activities important to South Dakota and the Nation.

I do have some questions.

First of all, as you know, I am very interested in the implementation of titles 5 and 6 of the Land Remote Sensing Commercialization Act of 1984. Yesterday, I received a letter from Secretary Baldrige describing the general outlines of the Department's plans and budget initiatives.

Could you describe in more detail for me the discussions you are having with the Geological Survey and when we can expect a fairly concrete plan of action?

I am particularly interested in the expanded research activities under consideration for EROS.

Mr. CALIO. Thank you, Senator.

The discussions have taken place between the Deputy Director of the U.S. Geological Survey and me. We have put together a task force to look at how we will proceed with the EROS Data Center and, in the years ahead, with the commercialization of Landsat.

As you know, we will establish that as the national archive for land remote sensing data, and we want to be able to continue the research and technical capability that exists already at Sioux Falls, SD, in the EROS Data Center.

We are working on a plan of action to enhance and build that capability. We plan to have that report completed by the end of this calendar year. We are looking at consortium activities, other research and development efforts that could take place in the area, and the application of remote sensing data and how we can build on the talent that already exists at EROS.

Senator PRESSLER. Good.

We have discussed with you in the past the idea of a joint USGS/NOAA-sponsored university consortium which you mentioned, which would utilize EROS and its unique facilities and archives.

Could you give me a status report on your discussions with the Survey on this topic, and your thoughts as to the usefulness of such a program in developing our overall national remote sensing capabilities?

It seems to me that enhancing academic interest in an understanding of the great potential for remote sensing data applications is a key step in developing a truly viable market. Is that an accurate statement?

Mr. CALIO. That is an accurate statement. I would rather defer my response until we have that plan completed. We are doing a great deal of work in looking at how to enhance the existing capabilities, and we have a number of people both from the Survey and from NOAA participating in that activity.

Senator PRESSLER. Would you give the committee an update on the Landsat commercialization effort?

Mr. CALIO. Right now we have completed negotiations on the contract with Eosat. We are waiting for the funding to be appropriated through the Congress, and when that happens we will sign a contract and proceed.

Senator PRESSLER. We have some additional questions for the record. Also, I ask unanimous consent to insert the letter from Allen H. Watkins, the chief of the EROS Data Center, regarding his experiences working with Dr. Calio.

And let me say that you are going to be the Administrator of a very difficult job because there are a lot of entrenched interests and a lot of different challenges there. But I certainly wish you well in your job and, by the way, I hope I can escort you to Sioux Falls in the near future for a visit to the EROS Data Center.

Mr. CALIO. Thank you.

The CHAIRMAN. Without objection, the letter will be put in the record.

[The letter follows:]

U.S. DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY,
Sioux Falls, SD, July 31, 1985.

Hon. LARRY PRESSLER,
U.S. Senate,
Russell Building, Washington, DC.

DEAR LARRY: I am writing to express my support for the nomination of Dr. Anthony J. Calio for the position of Administrator of the National Oceanic and Atmospheric Administration.

I have known Tony for almost 20 years and can assure you that he is a man of high ethics and judgment, and possesses all the experience and qualifications necessary for this important position.

I would appreciate your support of Dr. Calio's nomination in tomorrow's confirmation hearings.

Sincerely,

ALLEN H. WATKINS,
Chief, EROS Data Center.

The CHAIRMAN. Senator Stevens.

Senator STEVENS. Mr. Chairman, I don't have any questions for Mr. Calio. I have worked with him so long that I think we have an understanding.

My advice to you is to listen to Senator Ford, though. We would like to have you stay there, and I don't think you will stay very long if you make commitments to go against the President. I thought you were pretty careful not to make such commitments. My feeling is that since you are a member of a team down there, we can only expect you to work within that team to try and bring about the relationship between the Congress and this committee and your agency that is healthy to all of us.

I will try to protect you if you have made some commitments that went too far.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Gore.

Senator GORE. Thank you, Mr. Chairman.

Mr. Calio, welcome. I appreciated the chance to meet with you and talk with you when you came by my office, and I am impressed with the recommendations you received from those of my colleagues who have worked with you, and from others.

At the time we met, I told you I knew of no reason why I would not support your nomination, but that I was going to listen to the other side which does exist, and since that time I have reviewed certain documents that raise some questions in my mind.

I have not had a chance to call you and talk with you personally about these matters, but I do want to say that insofar as I told you in my office, I knew of no reason why I would not support you enthusiastically, that since that time I have had some questions raised.

And I would like to just ask you a few brief questions. I understand you have sufficient strong support that you will be confirmed. But I would like to ask you about this Comsat business. You were actively involved in the Department of Commerce's consideration of the 1981 Comsat proposal to take over ownership of Landsat and of NOAA's environmental satellites.

What exactly was your role in this effort?

Mr. CALIO. I was technical adviser to the Department concerning the issue of whether we should proceed with transfer of civil remote sensing to the private sector. I acted as a techical adviser as to how we should proceed, and what the technical elements associated with such a transfer were, rather than the implementation of such a transfer.

Senator GORE. Now, did you have frequent dealings with James Lynn and other Comsat officials and representatives and with Deputy Secretary Guy Fiske and his assistant, Michael Bayer?

Mr. CALIO. Those are two questions. The answer to the first one is no. I saw Mr. Lynn maybe once or twice in the whole process during that period of time. But I had frequent dealings with Mr.

Fiske, since he was Deputy Secretary for the Department, and I was responsible to him.

Senator GORE. Now, he was forced to resign as a result of this episode; is that a fair characterization?

Mr. CALIO. He resigned, I assume because of this episode.

Senator GORE. Did you attend meetings where the proposal was discussed in depth within the Government?

Mr. CALIO. The Comsat proposal?

Senator GORE. Yes.

Mr. CALIO. No, sir, I did not.

Senator GORE. You did not attend any such meetings?

Mr. CALIO. No, sir. I did not.

Senator GORE. Did you ever send information concerning the proposal to persons outside the Government?

Mr. CALIO. The Comsat proposal? No, sir.

Senator GORE. You never asked someone in your office to wrap material and send it to someone concerning this proposal?

Mr. CALIO. No. At that time, Mr. Fiske took the principal lead for the commercialization effort. I was originally providing service to him and he needed more technical or indepth analysis than I was capable of performing for him while carrying out my duties as Deputy Administrator. So he began to use the head of my satellite group, Dr. McElroy, and there may be have been exchanges between Dr. McElroy and Mr. Fiske of which I would not be aware. I just removed myself from being a middle man in that operation, and Mr. Fiske and Dr. McElroy worked on those aspects during that period of time.

Senator GORE. All right. I will submit some additional questions on this matter for the record.

What is your policy concerning the use of NOAA aircraft for personal trips?

Mr. CALIO. It is fairly straightfoward; NOAA aircraft are there to serve the research, development, and the professional services that are necessary to do surveying. That is their primary function.

If, when going from point to point, it is possible to ferry someone, they are allowed to do that, according to NOAA procedures. But only in the line of carrying out their tasks.

Senator GORE. Have you ever used NOAA aircraft for personal trips?

Mr. CALIO. No, sir.

Senator GORE. Did you fly to the convention last year?

Mr. CALIO. Did I fly to the convention? I went to the convention and I took commercial aircraft. Yes, sir.

Senator GORE. Not a NOAA aircraft?

Mr. CALIO. No, sir.

Senator GORE. All right. I will submit some additional questions for the record and perhaps we will have a chance to visit again on some other questions before the vote. I do not know when the chairman schedules it, but I appreciate your coming here today.

Mr. CALIO. Thank you, Senator.

The CHAIRMAN. Senator Rockefeller.

Senator ROCKEFELLER. I have no questions, Mr. Chairman.

The CHAIRMAN. Mr. Calio, Senator Hollings I know has some questions and perhaps some of the absent Senators do. Also, a number of us have questions to submit to you for an answer in writing, if that is all right with you.

Mr. CALIO. Absolutely, sir.

The CHAIRMAN. If there are no other questions, that concludes the hearing.

Senator STEVENS. Mr. Chairman, what is going to be the proposal for the committee? Are we going to try to get this nomination polled out? Or is the answer to the question that it is going to take so much time, we cannot do so before tomorrow?

The CHAIRMAN. Well, if there were no objections to polling it out, we could do it.

Senator STEVENS. I would request that we attempt to do so if we can.

The CHAIRMAN. I will be happy to attempt to do it. And, if not, we do not have any executive meeting planned for tomorrow, so we would have to wait until after the recess.

Senator STEVENS. Thank you very much.

Mr. CALIO. Thank you very much.

[Whereupon, at 10:05 a.m., the hearing was adjourned.]

[The following information was subsequently received for the record:]

QUESTIONS OF SENATOR PACKWOOD AND THE ANSWERS

Question. You are a member of the Cosmos Club which has been the subject of some attention recently because of its rule excluding women from its membership. What is your position on that rule against women?

Answer. I have no personal problem with female membership in the Cosmos Club. I should say however, that I am not an activist on the subject. As a matter of fact, my membership was a birthday gift from my wife.

Question. Fishery/marine mammal conflicts in Alaska, Oregon and Washington are the subject of increasing concern and decreasing federal funds. What would you plan to do to resolve the problem as Administrator?

Answer. For the past four years NMFS has funded Marine Mammal and Fishery Interaction Studies for the State of Washington. A similar study was funded for the State of Oregon.

Over a million dollars has been spent in the Washington and Oregon studies to determine the nature and extent of their problem.

In addition, studies of Marine Mammal and Fishery Interaction have been conducted in Alaska through the pollack fishery studies.

There have also been cooperative studies conducted by the West Coast states, Northwest Fisheries Center and Southwest Fisheries Center on this issue.

A report is currently being prepared to address interaction problems. Once that report is completed I will assess what alternatives are available and what should be done to deal with this issue.

In the meantime, I am working to get this issue before the next meeting of the London Ocean Dumping Convention in September, to focus international attention on entanglement and other related fishery/marine mammal conflict issues.

Question. As you know, the Congress has on occasion added funds to the appropriation to NOAA for special projects. In 1984, for example, $1 million was added for work on entanglement of marine mammals, birds and other creatures in fishing nets and debris. We have been advised that 25 percent of all such add-on funds is assessed and spent for general overhead and other expenses rather than on the specific project for which it was appropriated. Is this true? If so, what is the justification for it?

Answer. In fiscal year 1985, 25 percent of the referenced add-on was assessed by the National Marine Fisheries Service NMFS to cover shortfalls within NMFS (e.g. unfunded pay increases). This assessment was made after determining that the remaining funds would be sufficient to conduct the effort intended by the Congress, and the assessed funds were to be used for stortfalls within the line item for which the funds were appropriated. Subsequent to the initial assessment, additional proposals for work on entanglement have been approved, and the projected amount for entanglement studies is now approximately $900 thousand.

Question. The 1984 amendments to the Marine Mammal Protection Act called for certain actions by NOAA to deal with the tuna-porpoise issue. Please provide for the record the following information: (a) A copy of the written research plan for the monitoring of porpoise population abundance and trends;

(b) Your plans, including a schedule of meetings and workshops, to utilize government observer data to estimate porpoise population abundance and trends;

(c) Your plans, including a schedule for meetings and workshops, to continue progress in reducing the incidental take of porpoise to insignificant levels approaching a zero mortality and serious injury rate. Please specify in particular your plans for studies to develop alternative or modified fishing techniques that do not require setting on porpoises;

(d) Your plans, including a schedule for meetings and workshops, to deal with the increasing kill of porpoise by foreign tuna fleets.

Answer. A panel of outside experts representing the Porpoise Rescue Foundation, Marine Mammal Commission, Inter-American Tropical Tuna Commission, and North Carolina State University was organized to assist the Southwest Fisheries Center staff in developing a research plan for monitoring dolphin abundance and trends, using research vessels. This panel met twice, November 1-2, 1984 and February 6-8, 1985, and its advice was used in developing a monitoring program. In summary, the program will include the following:

1. The use of two research ships for 120 days each, for each year.
2. The survey season will be August-December, beginning in 1986.
3. Five years of monitoring to establish an index of stocks to recognize early any decline in the principal stock (with a 90 percent certainty).
4. Continued research on ways to use data from the porpoise-tuna observer program to supplement data from the monitoring program.

(b) Ongoing Southwest Fisheries Center activity is in compiling, editing and preparing historical observer data for analyses and performing preliminary analyses of the data. SWFC recently met with the Inter-American Tropical Tuna Commission to obtain that agency's cooperation in participating in the research. The parties agreed to cooperate and to hold an additional meeting with experts to discuss the problem, identify research questions, scope-out an action plan and address the questions and identify ways to execute the plan. We expect that meeting to be held in the fall of 1985. A March 1986 meeting is also under consideration involving other parties (such as Marine Mammal Commission and U.S. Tuna Foundation).

(c) NOAA's National Marine Fisheries Service has been reviewing the results of previous workshops and the most recent literature concerning gear improvements and fishing techniques. When this review is completed by the end of fiscal year 1985, the Fisheries Service will determine the best procedure to develop alternative or modified fishing techiques that do not require setting on porpoises. The results of earlier efforts to develop such methods and/or gear have been unsuccessful. Use of the available alternative methods would result in an economically untenable situation for the U.S. tuna fleet and provide the foreign fleet with a competitive advantage over the U.S. fleet. The Fisheries Service plans to assemble a working group consisting of scientists, gear specialists, industry representatives, and other concerned, knowledgeable parties to explore this problem in Fiscal Year 1986. In addition, the Fisheries Service, with the cooperation of the tuna industry, is preparing guidelines that specify the most efficient and reliable techniques for saving porpoise encircled while seining for tuna. The guidelines will be completed in early 1986.

(d) NOAA scientists believe that the total kill of porpoise by the foreign tuna fleet is approximately the same as that of the U.S. fleet and there is no reliable data to refute this. NOAA's National Marine Fisheries Service is working with the Inter-American Tropical Tuna Commission to transfer U.S. fishing technology including gear and practices that have been shown to be most effective in saving porpoise encircled during tuna seining operations.

In addition, the Fisheries Service is developing regulations to implement the 1984 amendments to the Marine Mammal Protection Act requiring foreign nations with purse seine vessels in the eastern tropical Pacific Ocean and that wish to export tuna to the U.S. to have regulatory programs governing the incidental taking of marine mammals comparable to that of the U.S. Those nations also are required to have incidental take rates comparable to that of the U.S.

While there currently are no plans for meetings or workshops, I intend to review this situation in the near future.

Question. I understand that the National Weather Service has received a proposal for the development of two prototype weather imaging processing systems called

"Micro-WIPS." These inexpensive units would enable Weather Service Offices which do not have direct access to weather satellite data to tap into the more expensive "D-WIPS" units, which receive data directly. Weather stations in Oregon, for example, could tap into the D-WIPS units in San Francisco or Seattle for the price of a telephone call. Do you believe that Micro-WIPS units could provide a cost-effective means of making weather satellite data available to rural Weather Service Offices and has NOAA considered purchasing prototype Micro-WIPS units?

Answer. NWS is still evaluating D-WIPS at the San Francisco office, but has not advanced to the point of determining how D-WIPS might be networked to smaller offices and what cost effectiveness would be achieved.

NWS is currently looking at ways of making satellite data more widely available to Weather Service Offices.

Although we have not evaluated the proposal for Micro-WIPS in detail, we are looking at this type of technology in the total communications/interactive data system, (i.e., AWIPS-90), that is planned for the near future and proposed funding for in the fiscal year 1986 budget.

AWIPS will bring satellite data, radar data, and other data sources together in a nationwide system which would be available to all weather service offices.

Question. With regard to your response to my question about fishery/marine mammal conflicts:

(a) When will the report on such interactions be completed and made available to the Committee and the public?

(b) When will your assessment of what should be done to deal with this issue be communicated to the Committee?

(c) Precisely what "other related fishery/marine mammal conflict issues" besides entanglement do you propose to raise at the meeting of the London Ocean Dumping Convention in September? What do you plan to ask the participants at the meeting to do and under what provisions of the Convention do you believe the meeting could take action to deal with such issues?

Answer. (a) A draft report is being prepared by the Washington Department of Game on a study entitled "Identify and Test the Most Effective and Appropriate Methods and Technologies for Mitigating Marine Mammal Fishery Conflicts on the Columbia River and Adjacent Waters". The report is expected to be in final form by September 30, 1985. I will be happy to send the Committee a copy of this report as soon as it is available.

(b) The National Marine Fisheries Service expects to provide its assessment of what alternatives are available to deal with the fishery/marine mammal conflicts no later than March 1986.

(c) The U.S. position at the London Ocean Dumping Convention with regard to marine mammals will focus on the problem of fishing gear debris (netting) resulting from incidental vessel operations. The other related fishery/marine mammal conflicts referenced in my previous answer deal with the ingestion of plastics discarded at sea. I am attaching [1] a copy of the U.S. position paper and a draft resolution the U.S. may introduce.

Question. With regard to your response to my question about the 25 percent assessment imposed on all add-ons:

(a) Please provide a list of all such add-on funds (by NOAA program) from which 25 percent was assessed during fiscal year 1985, the shortfalls or other uses made of the assessed funds, and the basis upon which it was determined that the remaining 75 percent was "sufficient to conduct the effort intended by the Congress."

(b) Do you expect to continue to assess all add-ons by 25 percent during fiscal year 1986?

(c) Please provide a list of the entanglement studies that will be funded by the $900,000 that is now available, with the funding, description, and status (completed, underway, proposals being solicited, contract being negotiated, etc.) indicated for each project.

Answer. (a) The following specific program amounts added by the Congress in fiscal year 1985 were assessed by 25 percent:

Program title	Appropriated amount ($K)
Atlantic Salmon Research	100
Beaufort Lab	90

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[1] The attachment has been retained inthe Committee files.

Program title	Appropriated amount ($K)
Pacific Habitat Research	500
SEAMAP	1,000
Std Method for Eval. Habitat Res	1,000
Gloucester Lab	473
Gulf Species R&D	1,000
Menhaden R&D	1,000
Protected Species Entanglement	1,000
Environmental Impact Analyses	845

The 25 percent assessment was used to finance several accumulated shortfalls (e.g., the FY 1985 pay raise, A-76 savings which have been delayed pending completion of ongoing studies, and Congressionally directed actions without associated fundings).

While we may have ongoing programs in some of these program areas, add-ons generally require additional planning staffing, etc. before the new money can be spent. Given the time it takes to develop spending plans for Congressional add-ons, and to obtain additional staffing if necessary or contract support through the procurement process, it is difficult to fully use the new funds during the first year provided. This provided the primary basis for my earlier response that the remaining funds would provide a sufficient level of effort in fiscal year 1985.

(b) There is no plan to continue any of the above assessments during fiscal year 1986, as long as we have no shortfalls.

(c) The following is a list of the entanglement studies and their status:

Title	Funding	Status
Marine debris education in the Pacific	$144,000	Underway.
Beach cleanup programs	6,100	Contract negotiation.
Development of degradable materials	45,000	Proposal solicitation.
Disposal methods development	66,000	Underway.
Workshop on fate and impact of marine debris	50,000	Completed.
Northern Fur Seal entanglement	106,000	Underway.
Northern Sea Lion entanglement	85,000	Underway.
Debris identification and reference collection	48,000	Underway.
Beach accumulation and loss rate estimation	35,000	Underway.
Foreign fishery observer data summary	23,000	Underway.
Squid gillnet fishery observations	100,000	Underway.
Analysis of debris threats to Monk Seals	13,000	Underway.
Dynamics of derelict gillnet	27,000	Underway.
Sea Turtle debris ingestion impacts	27,000	Proposal solicitation.
At-sea debris survey methodology	20,000	Underway.
Stranding program information expansion	8,000	Underway.
Seabird debris ingestion impacts	35,000	Proposal solicitation.
Aerial survey methodology	8,000	Proposal solicitation.
Program management	53,900	Underway.
Total	$900,000	

Question. With regard to your response to my question about the tuna-porpoise issue:

(a) Please provide a copy of the written research plan for the monitoring of porpoise abundance and trends that was requested.

(b) Please expand on your statement that the monitoring program is to detect "any decline in the principal stock". Will it detect "any" decline or only a decline of 40 percent or more? What is the "principal stock" and what about the other stocks of porpoise affected by the fishing activities?

(c) On what date will the "meeting with experts" be convened to discuss use of government observer data? Who will be invited? Why do you not plan to meet with "other parties (such as the Marine Mammal Commission and U.S. Tuna Foundation)" before March 1986?

(d) When will the Service's determination of the best procedure to develop alternative or modified fishing techniques be made available to the Committee and the public?

(e) When in fiscal year 1986 do you plan to assemble the working group to explore this subject?

(f) Are there "reliable data" to *support* the belief by NOAA scientists that the total kill of porpoise by the foreign fleet is equivalent to that of the U.S. fleet?

Answer. (a) We are currently preparing a plan for research vessel monitoring of trends in Eastern Tropical Pacific (ETP) dolphin population size. Before finalizing the plan, however, we will take steps to ensure that all reasonable alternatives are reviewed to identify the most cost effective method of monitoring porpoise abundance and trends. We will seek the advice of outside interested groups such as the Marine Mammal Commission, the Porpoise Rescue Foundation to accomplish this.

To date our efforts have been based on the work of the Southwest Fisheries Center in this area. During late 1984 and early 1985, the Southwest Fisheries Center (SWFC) held meetings to establish a survey design group to consider alternative methods of detecting trends in the abundance of ETP dolphins, and to organize a panel of non-SWFC scientists who were experts in various aspects of marine mammal assessment to review and provide advice on the scientific aspects of the program. Three documents resulting from those meetings are appended.

The options recommended by the review committee include using two research vessels committed to census visually the ETP dolphins for 120 days each for five years during the months August through December. We will initiate this series of cruises in August 1986. The review committee also recommended the use of a helicopter in the surveys, and the SWFC is attempting to obtain the use of one.

(b) We expect the two ship stock assessment program to be able to detect a total decline of 40 percent or more over a five-year period, with 90 percent statistical confidence. Detection of less-steep declines, or higher levels of statistical confidence are possible, but will require a program duration exceeding five years and will cost more money. Other methods of identifying porpoise population declines that may be more cost efficient or effective will be explored before the plan is finalized.

The sampling program is directed primarily at offshore spotted dolphins, the stock most often involved in the tuna fishery. Our research program will also cover the other stocks of spotted, spinner and common dolphin most directly involved in the fishery. Those remaining stocks that are less frequently encountered cannot be assumed to be covered.

(c) A meeting of experts to discuss observer data is being arranged for the week of November 18 in San Diego. We will be in tough with the Committee when a firm date has been established. The Marine Mammal Commission, the U.S. Tuna Foundation, and other concerned organizations will be asked to recommend qualified experts as participants at this meeting. A list of meeting participants will be provided to the committee as soon as it is available.

(d) The National Marine Fisheries Service expects to make available to the Committee and the public the results of its review concerning the procedures to develop alternatives for modified fishing techniques by January, 1986. These procedures will serve as guidance for the working group to explore this subject.

(e) The National Marine Fisheries Service plans to assemble the working group no later than March 1986.

(f) The principal source of data on non-U.S. porpoise mortality is the Inter-American Tropical Tuna Commission. In its 1984 background paper No. 6, the IATTC estimated the total non-U.S. mortality of porpoise from 1979 to 1983 to be 52,918 (±16,466), using a kill-per-set estimator. Based on that and earlier reports IATTC has estimated the U.S. mortality during the same time to be 82,690 (±2,700) using the kill-per-set estimator. The National Marine Fisheries Service (NMFS) estimates the cummulative kill by the U.S. fleet during the same period to be 84,900, using kill-per-set estimator. We believe that the data provided by the IATTC are reliable for purposes of estimating non-U.S. porpoise mortality.

The IATTC data show that the U.S. fleet captures more but kills fewer dolphins per set than the non-U.S. fleet. However, these differences between the U.S. and non-U.S. are not statistically significant. The differences are due to differences in spatial and temporal distributions of the two fleets.

QUESTION OF SENATOR PRESSLER AND THE ANSWER

Question. I would like to follow up on my question regarding the University consortia idea. (1) Could you expand on the consortia proposal in a bit more detail? (2)

Specifically, do you support the consortia plan? (3) Do you believe it is a good idea? Why or why not? (4) Would you support funding of such a plan? (5) Would you be willing to take an active role in working with the Geological survey and any interested Universities in developing and promoting the consortia?

Answer. (1) It is our intention to set up a joint research institute with representatives from the academic community, USGS, NOAA, other federal agencies, and the private sector. A task force group from NOAA and USGS are meeting on July 31 and August 1 to start to develop a plan for establishing the archive and a cooperative remote sensing research institute associated with the archive at EDC. The implementation phase-in plan should be completed by the end of this calendar year.

(2) Yes, I do support the consortia plan.

(3) Yes, I believe the consortia plan is a good idea. It provides the opportunity to receive input from different sectors in a wide range of cooperative activities. The consortia will also make the government archive an active entity with new research being done on applications in remote sensing as opposed to merely storing archive tapes at EDC which are of limited use.

(4) Funding for the activities at the Eros Data Center are already part of the FY 86 NOAA budget. NOAA plans to continue to fund activities at EDC at approximately the fiscal year 85 level of $6 million.

(5) Yes, we are doing that now. The task force is working out the details between USGS and NOAA.

Questions of Senator Gorton and the Answers

Question. This committee is aware that the Administration is studying alternative technologies for the development of the Next Generation Weather Radar, or NEXRAD, system. We have taken the position that the Administration should begin limited production of NEXRAD units in fiscal year 1987 in accordance with the original NEXRAD schedule. Is this schedule threatened by a study of available technologies and do you support the funding increase necessary to begin limited production of NEXRAD units in fiscal year 1987?

Answer. The Secretary of Commerce, through me, created the Advisory Committee on NEXRAD System Requirements Evaluation to evaluate the existing NEXRAD Criteria, and to identify the type of radar required and the minimum weather radar system needed to satisfy requirements of the Departments of Commerce, Defense, and Transportation. The Committee membership is composed of experts from outside DOC/NOAA with knowledge of radar technology and meteorological uses of that technology.

The Committee has interviewed the Air Force, the Federal Aviation Administration, the National Weather Service, Enterprise, Sperry, Raytheon and scientists affiliated with the Environmental Research Laboratory in Boulder, Colorado. The Committee is expected to report to the Secretary and to Congress in October.

I do not believe the NEXRAD production schedule will be significantly disupted by the requirement that we compare commercially available Doppler radars. Based on what the Committee and the in-house technical team recommend, I support the initiation of radar procurement/production in fiscal year 1987.

Question. NOAA has been criticized for its aggressive program of contracting out NOAA activities to the private sector pursuant to OMB Circular Memorandum A-76. Critics charge that NOAA has sought cost savings over-zealously and has not paid proper attention to the quality of services and the protection of public safety and welfare. How do you respond to this criticism and do you, if confirmed, plan any changes to NOAA's contracting procedures?

Answer. A recent report by the General Accounting Office, prepared at the request of various members of the House and Senate, found that while NOAA's OMB Circular A-76 program got off to a rocky start, the initial problems have been corrected and the program is running smoothly and in full accord with the Circular A-76 requirements.

NOAA is conducting the A-76 studies in full accord with the law and is using the criteria established by the Office of Management and Budget for the management reviews and for the estimate of cost savings. I do not anticipate any change in our procedures and it is my intention to keep Congress fully apprised of our A-76 activities.

Since there has been some concern about our fiscal year 1986 estimate of A-76 savings, I would like to provide the Committee with information on the formula used by NOAA to prepare this estimate.

NOAA's estimate of A-76 savings is prepared by a standard formula developed by the office of Federal Procurement Policy. The formula assumes that for any given A-76 study, there is a 50 percent chance that the function will remain in-house and a 50 percent chance that it will be contracted out. Thus, for each A-76 study, the Full Time Equivalent (FTE) involved are divided by two. Then a percentage factor for FTE savings is applied to each half—20 percent for the in-house assumption and 95 percent for the contracting out assumption. The product of each calculation is then multiplied by the dollar savings per FTE—$25,000 for the in-house assumption and $6,000 for the contracting out assumption. The sum of these calculations provides the total A-76 saving which the formula then allows the agency two years to achieve these savings. Applying the Office of Federal Procurement Policy formula to NOAA's A-76 inventory for the studies to be completed in fiscal year 1985/1986 savings were estimated to be $7,767K. Additional savings from studies completed in fiscal year 1984 were $378K for a total of $8,145 K in fiscal year 1986.

Question. Under section 204(b)(10) of the Magnuson Fishery Conservation and Management Act, foreign fishing fees should recover the amount which we expend to enforce the provisions of the Act on those fleets. A recent GAO report indicates that the foreign fishing fee formula utilized by the National Marine Fisheries Service may not fully charge those fleets the costs attributable to them. As Administrator, would you support increasing those fees?

Answer. Although existing law requires us to set foreign fishing fees in an amount sufficient to cover managing the fisheries, we agree that the current formula may work counter to our best interests.

To address this problem, the draft legislation we sent to the Congress earlier this year to reauthorize the Magnuson Fishery Conservation and Management Act contained an amendment which would give us greater flexibility to establish fee levels.

Question. The Committee is concerned about the lack of adequate representation of commercial fishermen on the Regional Fishery Management Councils created by the Magnuson Fishery Conservation and Management Act. As Administrator of NOAA, would you be committed to recommend appointment of candidates who represent the fishing interest which is being most directly affected?

Answer. I support the appointment of knowledgeable and experienced people to the Fishery Management Councils (FMC), recognizing that appointments are limited to those people nominated by the Governors whose states are represented on the various Councils. I might add that in the draft Magnuson Fishery Conservation and Management Act Reauthorization measure the Department of Commerce sent to Congress earlier this year, we recommended that the Act be amended to require nominees to be knowledgeable and experienced.

Every effort is made to ensure that appointments to the Fishery Management Councils are balanced and that all fishery interest within a Council area are considered. The competing interests between the commercial and recreational fisheries are more pronounced in some Councils and thus the perception of under-representation may occur from time-to-time. The attached chart of current Council representation demonstrates our commitment to balance membership; in fact, total commercial membership on the Councils increased this year.

As Administrator, I will continue to recommend that the Secretary appoint members representative of an area's interests for Council service.

	Commercial		Recreational		Environmental		Consumer		Academic and Scientist Fish Admin.		Generalist	
	1984	1985	1984	1985	1984	1985	1984	1985	1984	1985	1984	1985
N.E	8	8	2	2	2	2			1	1		
M.A	6	8	6	6	2	2			1			
S.A	1	1	3	3	4	4	1	1	1	1	2	2
Gulf	6	6	6	6	2	2						
Carib	1		1	2					2	1	1	2
N. Pac	6	6							1	1	1	1
Pac	4	4	2	2	2	2			3	3		
W. Pac	2	4	3	2					1	1	4	3
Total	34	37	23	23	12	12	1	1	10	8	8	8

Note.—Total figures will exceed actual number of Council members because some members are counted in two categories, e.g., P. Carrol of Connecticut is counted in both Recreational and Environmental categories.

Question. Each year the Reagan Administration has proposed to eliminate one of NOAA's two polar-orbiting weather satellites. The motive for this cut is cost savings, yet there is uncertainty about the savings which would be realized. The President's 1986 budget proposal showed that savings of over $82 million would result in 1986 from a cut to a one-satellite system. The House Appropriations Committee, however, has sought to preserve the two-satellite system with a restoration of only $31 million.

Further, NOAA's Envirosat 2000 study shows that a one-satellite system could require as many satellites over a 15-year period as a two-satellite system. NOAA would have to launch a new satellite every 18 months or whenever the satellite in orbit experienced even a partial failure, as opposed to the current practice of launching a satellite only when one of the two satellites fails completely.

What is your view of the potential savings associated with eliminating one of the polar-orbiters?

Answer. The fiscal year 1986 budget was based on buying three satellites for the one satellite system versus buying six satellites for the two satellite system starting in fiscal year 1986. It is front-end loaded for the two satellite system. We would not buy six more at this time.

I believe the House Appropriations Committee estimates were based on three more for either system and the transition costs of going to a one satellite system. Thus, they show only the near term savings on stretching out our purchases. There are some cost savings associated with the conversion to a one satellite system by converting all the satellites to fly in the prime afternoon orbit. Current rough estimates of the savings are approximately $175M–$200M. In addition, under a one-polar scenario, funding for the next generation of polar spacecraft/platforms could be delayed. The long term costs would depend on how lucky we are with satellites living longer than their design lifetimes.

The NOAA Envirosat 2000 report was a theoretical analysis aimed at deriving management principles. It assumed purchases for the next fifteen years and represents an unrealistic scenario.

Question. The polar-orbiters also are used to fulfill the U.S. commitment to provide two satellites for the international search and rescue, or SARSAT, program. NASA, if asked by NOAA, is prepared to build an inexpensive, dedicated search and rescue satellite to ensure that we honor our commitment to SARSAT. What is your view of this proposal and under what circumstances would you propose that NOAA fund development of such a satellite?

Answer. As long as we have the present system, we have met our commitment to the search and rescue system. I would support a dedicated satellite if, and only if, it showed some cost savings.

Question. The Oceanographic community places great importance on the development by NOAA of an Ocean Color Imager to be carried on the NOAA K, L, M series of polar-orbiting satellites. The Ocean Color Imager would provide important data on the physics, chemistry and biology of the ocean. NOAA must begin development of the Ocean Color Imager in fiscal year 1987 to develop the instrument for the K, L, M series. Is development of the Ocean Color Imager a high priority of yours for the fiscal year 1987 budget?

Answer. The Administration is still formulating the fiscal year 1987 budget and thus it would be premature to discuss specific requests of the agency for the next Fiscal Year. The research community, the ocean industries and our own NOAA services have voiced strong support for the Ocean Color Imager.

The Ocean Color Color Imager is a well-proven instrument from NASA's NIMBUS program. It is the last of the ocean instruments proven by NASA which needs a flight opportunity, and it could fit well with the NOAA polar orbiting satellite. We hope to find a way to accommodate the Ocean Color Imager in our program.

Question. The Senate has passed legislation to authorize sufficient funding for NOAA to procure five GOES satellites by the mid-1990's in order to avoid gaps in GOES service. The House of Representatives, however, has appropriated only enough money to provide for procurement of three satellites. In your view, how significant is the risk that gaps in GOES satellites are procured, and in turn, how seriously would a gap in service degrade weather forecasts?

Answer. There is the possibility that a three spacecraft buy could adversely affect NOAA's ability to provide weather information and a premature failure could result in data gaps. A five spacecraft buy will reduce the overall program costs by approximately 30 percent, and would avoid the possible redesign of a follow-on buy caused by the unavailability of specific piece parts.

A five-spacecraft buy will put the GOES program on an operational basis like the NOAA Metsat program, and would help ensure the availability of a replacement satellite in the event of a failure.

GOES coverage is critical for tracking the short-term development and movement of cloud systems for use in short-term forecasts and warnings. A gap in coverage could cause a potentially serious loss of weather data that could cost lives and billions of dollars in damage due to delay in storm warnings.

Question. NOAA has begun developing the Advanced Microwave Sounding Unit (AMSU), which is scheduled to be carried on the NOAA K, L, M series of polar-orbiting satellites. The administration, however, has proposed to eliminate funding for AMSU development. NOAA intends to discontinue use of the Microwave Sounding Unit, as discussed in the draft NOAA/NASA report on remote sensing research and development. Does the administration intend to include any microwave unit on NOAA K, L, and M? What are the implications for future NOAA budget submissions?

Answer. The Administration's budget has always included a "follow-on sounding unit" for the next satellites in the polar orbiting series. That "follow-on sounding unit" is the Advanced Microwave Sounding Unit (AMSU).

We intend to include the AMSU on the next satellites, and we have conducted a competition, selected a contractor and will award a contract in time to begin development toward the end of this calendar year. We will introduce the AMSU starting with NOAA-K. With the delay in purchasing the NOAA-K through -M satellites, there was no need for additional fiscal year 1986 funding above what was included in the fiscal year 1985 base budget. Future NOAA budgets should provide for the AMSU manufacture and deployment, including the necessary hardware and software for ground data processing.

Question. You disagree with the assumptions used in the Envirosat 2000 study to estimate the number of polar-orbiting satellites needed by NOAA over a 15-year period under both one-satellite and two-satellite configurations.

(a) What conditions do you believe would lead NOAA to launch a replacement satellite under a one-satellite configuration?

(b) How many satellites do you estimate NOAA would procure over a 15-year period under a one-satellite configuration?

(c) How many satellites do you estimate NOAA would procure over a 15-year period under a two-satellite configuration?

(d) What amount of savings do you estimate NOAA would realize over a 15-year period as a result of a reduction to one polar-orbiter?

(e) Do you support a reduction to one polar-orbiter?

Answer. I do not "disagree" with the Envirosat Study. I stated in my earlier answer that the "Envirosat 2000 report was a theoretical analysis aimed at deriving management principles. It assumed purchases for the next fifteen years and represents an unrealistic scenario."

To expand on my earlier answer, the Envirosat Study did not set out to determine how many satellites we should buy, but how to manage our resources once they were procured. The study assumed we would continue to buy nearly identical spacecraft for the forseeable future and I do not believe this assumption is correct. I believe we will join NASA on the polar orbiter of the space station complex, thus deriving significant benefits from a serviceable platform and long-term cost savings on operational expenses.

(a) Under a one-satellite configuration, a replacement satellite would be launched either upon failure of a satellite in orbit, or at eighteen-month intervals (6 months less than the expected lifetime), whichever came first.

(b) and (c) Normally, NOAA requests funds for procurement of spacecraft and launches to meet forseeable near-term (5–10 years) mission requirements for its polar program. Definition of longer term procurements is subject to uncertainties such as expanded missions, improved instrumentation, and new platform opportunities (e.g., the Space Station). These procurements are incorporated in a budget request when required to ensure replacement capability for a spacecraft already under procurement. This focus on near-term requirements is more relevant to defining budget needs than the 15-year period referenced in the Envirosat report. In the President's fiscal year 1986 budget request, a comparison between a one and two polar configuration assumed procurement of 3 additional spacecraft for a one polar system vs. 6 additional spacecraft for a two polar system to provide service over an approximate 10-year period.

(d) The comparison between a one vs two polar system included in the President's fiscal year 1986 budget indicated a savings of approximately $150 million from converting to a one polar system. Since that budget request was submitted, estimates for the two scenarios have been revised. Current rough estimates of the savings over the same period from converting to a one polar system are approximately $175-200 million if the follow-on series of spacecraft for the two polar system beginning with NOAA N is identical to NOAA K, L, M (use of the Space Station may produce some savings).

(e) I fully support reducing NOAA's cost of doing business. I believe we can do this and still meet mission requirements by converting to a one polar system.

Question. Your response to my earlier question (No. 4) regarding the composition of the Regional Fishery Management Councils referred to a "perception of underrepresentation" by commercial fishermen on Councils. You suggested that your chart demonstrates your commitment to balance membership. Do you consider appointment of one commercial fisherman to the 13 voting member South Atlantic Council to reflect a commitment to balance membership? Will you as Administrator recommend increases in the number of commercial fishermen appointed to this and other Councils on which such representatives constitute less than 50 percent of the voting members?

Answer. I believe the addition of 3 commercial fishermen to the Regional Fishery Management Councils in 1985 demonstrates a commitment to balance membership, and commercial interests are represented in the total Council membership more heavily than any of the other occupational categories.

The law sets forth specific criteria for the selection of Council nominations. If Congress statutorily requires that each Council have no less than 50% of its members be commercial fishermen, we will so advise the Governors of the States who provide the lists from which we select our nominees. I think setting specific quota for Council representation may not be in the best interest of the Council system. As I mentioned in my previous response, I am committed to making every effort to ensure that Council appointments are balanced and that all fishery interests within a Council area are given consideration.

QUESTIONS OF THE MINORITY AND THE ANSWERS

Question. Please outline your primary goals and priorities for NOAA over the next 2 years, assuming you are confirmed as Administrator.

Answer. My goals for NOAA are (1) to take necessary steps to investigate, and understand the environment in which our national resources abound; (2) to improve our ability to monitor the chemical and physical state of our oceans and atmosphere, as well as, improve the quality and timeliness of predictions of the state of the weather and the oceans in a continuing effort to safeguard life and property; (3) to promote the conservation and wise development of our living marine resources, our coastal resources and the hard mineral resources of the deep seabed for both economic and social benefit; (4) to preserve endangered marine species, marine mammals, and unique estuarine areas for the future.

We have the necessary legislative tools to achieve these goals: the Magnuson Act, the Coastal Zone Management Act, the Endangered Species Act, the Weather Services Act, and a variety of other statutes which define the mission and authorities of NOAA. In accomplishing our goals we must balance benefits against cost consistent with the Administration's determination to reduce the Federal deficit. It is clear that the Federal Government must urge other sectors, governmental and non-governmental, to participate.

From the standpoint of program priorities, two important elements of NOAA programs must be stabilized: the Great Lakes and the Solar Terrestrial research efforts. Next, we must ensure that the NOAA fleet is outfitted with the most cost-effective modern instrumentation available to allow it to do its job efficiently. We must also strengthen our ocean observation efforts and our near-real-time water level measurements. We need to ensure the support of the U.S./Canada Salmon Treaty. We need to ensure the modernization of the U.S. Weather Service by bringing on line, as quickly as possible new technologies, such as NEXRAD, PROFILER, and AWIPS, while maintaining adequate fiscal constraints. We need to expand the National Meteorological Center to include development of national ocean guidance information so as to ensure the effective use of the Ocean Service Centers and to increase our skills in marine forecasts. Finally, we must make sure that we have a sound scientific underpinning and adequate research to carry out these objectives; we must ensure the integrity of the TOGA program, climate research, mesoscale research, and atmospheric chemistry research.

As you well know the atmospheric and ocean relationship is dynamic. And the elements described above are not mutually exclusive. Therefore we need some of all the elements. This makes for tough management decisions. At the same time, we must be mindful that the strength of our country depends on economic stability. We must pay heed to government expenditures in order to minimize them wherever possible and look for more efficient ways to conduct our operations. We need also to evaluate cost-sharing wherever practical and to develop sound approaches to meaningful cost-recovery of Federal expenses.

This cannot be done by the NOAA Administrator alone. It will take the combined efforts of the Executive and Legislative Branches who working collectively can respond to our total national needs both social and economic, as well as, strategic and scientific.

Question. NOAA is an agency with a wide variety of highly specialized scientific and technical responsibilities. For this reason the Commerce Committee had traditionally stressed the need for NOAA leaders to possess considerable knowledge about the agency and its specialized oceanic and atmospheric activities.

Do you agree that this standard should be applied to the selection of NOAA's Administrator, Deputy Administrator, Associate Administrator and Assistant Administrators?

Answer. NOAA senior management needs more than just technical expertise. Both managerial and political skills are also necessary. No one knows this more than the Congress. NOAA needs people in the senior management team that possess scientific, technical, managerial, and political talent. I will be looking for a proper balance of these talents for the NOAA team. Considering the full complement of these attributes my definition of the standard stated above should apply.

Question. What role do you expect to play in filling current and future vacancies at these political levels, once you have been confirmed as Administrator?

Answer. I intend to clear up any current vacancies by filling them with permanent positions. I will work closely with the White House Office of Personnel and the scientific community to find knowledgeable people who are willing to work in the national interest. I believe it is incumbent on the Administrator to have a dominate role in the selection process.

Question. What kinds of qualities and background will you emphasize in considering candidates for these top managment positions?

Answer. The combination of the Deputy Administrator, the Associate Administrator and Assistant Administrators need to offer a balance of scientific, technical, political, and managerial expertise.

The Assistant Administrators should first be technical experts in their field. Second they should possess management and leadership qualities. They need to interpret policy guidelines as articulated by the Executive and Legislative Branches. And their technical operations should reflect this. Assistant Administrators must understand the technical requirements needed to carry out their mandate. And they must be able to articulate these requirements through the management chain. Furthermore, Assistant Administrators must be able to play an integral part in the policy process and must be willing and able to recommend policy and program changes to improve their program areas.

The top NOAA management—Administrator, Deputy Administrator, and the Associate Administrator—must as a team possess all the skills mentioned above. I intend to create a top management team which will reflect the scientific, technical, managerial, and political attributes necessary to successfully carry out the NOAA mandate.

Question. Concern has been expressed over your relationship with the marine scientific community as well as your personal interest in ocean and fishery areas.

Is this concern valid?

What do you plan to do about this perception?

Answer. I have been working very closely with representatives of the oceans and fishery community and I am prepared to continue and expand these contacts. I have had extensive meetings with the Marine Fisheries Advisory Committee to solicit their views on high priority fisheries research plans.

I believe that the views of the marine scientific community are critical to the establishment of future directions for NOAA research programs. Toward this end, I have initiated contact with the Dr. Walter H. Munk, Chairman of the Board on Ocean Science and Dr. Charles L. Hosler, Chairman of the Board on Atmospheric Sciences and Climate and have asked them to assist me in conducting a comprehensive review of NOAA's science and service programs.

I do not believe the concerns raised are valid. I am prepared to work with all interested members of the scientific community in an open and cooperative manner to achieve the best research program for NOAA.

Question. NOAA's growing costs for continuing the operation of our essential environmental satellite system, together with tight budget ceilings on civilian agency appropriations, has put a tremendous squeeze on NOAA ocean and fisheries programs.

Do you have any plan for dealing with this problem?

Answer. I agree the operation of our environmental satellite system is essential. It contributes significantly to a better understanding of the oceans, and is helpful in carrying out our tasks in fisheries management and conservation.

In the future we will be limiting our cost for satellite development and operations to the METSATS. We will gain our ocean satellite data through the development of cooperative arrangements with the Navy, with NASA and with the European Space Agency. By 1989, three highly significant orbiting ocean satellites will be in place. These include the Navy's Remote Ocean Sensing Satellite (N-ROSS), NASA's TOPEX Satellite and the European Space Agency's first Earth Resources Satellite (ERS-1). These instruments will continue to measure important ocean parameters at no cost to NOAA.

As a result of this effort, we will be able to focus our attention on interdisciplinary and non-satellite observations and predictions regarding our oceans and fisheries in the remaining portions of the budget. Specifically, these activities will include mapping the EEZ, real-time water level measurements, expanding our modeling capabilities for tracking and locating fish stocks. And we will continue our efforts to enhance biotechnology research.

Question. The Administration has consistently proposed eliminating Sea Grant, the Coastal Zone Management grant program, the Great Lakes Environmental Research Laboratory and other important NOAA activities.

If confirmed as Administrator, what priority would you place on these NOAA programs?

Answer. One of the highest priority NOAA activities relate to the agency's responsibilities to provide environmental forecasts and warnings to the public to protect life and property. An important part of these activities is the supporting research which needs to be done to improve the quality of our services.

I have consistently placed a high priority on the work of the Great Lakes Environmental Research Laboratory (GLERL). This laboratory supports a number of important NOAA programs. As Administrator, I will continue my support for GLERL.

I also believe that Sea Grant can play a part in the conduct of supporting research. However, we need to achieve a better balance in NOAA's overall university funded research activities to allow us to focus our research more directly on meeting our mandated statutory responsibilities and to allow for securing the best available research capabilities to carry out the job.

Both the Sea Grant and the Coastal Zone Management programs have been proved successful in establishing the existing network of Sea Grant College programs and assisting the coastal and Great Lakes states in developing coastal management programs and initiating research on regional concerns. The overriding need to reduce the Federal deficit has forced us to consider all of our programs and to focus our resources on ocean science and service programs which only the Federal government can provide.

Decisions to terminate the Sea Grant and the Coastal Zone Management programs were not based on any determination that they were unsuccessful or unworthy. We have been asking the states and the private sector interests benefitting from the programs to begin to assume a greater financial responsibility.

I will continue to investigate mechanisms for increasing non-Federal support for programs benefitting regional and local interests. I am committed to ensuring that we maintain the unique capabilities established by these programs to meet national research and resource management needs, and to continue strengthening cooperation among the Federal government, local and state interests and the private sector.

Question. In response to a question by Senator Schmitt at your 1981 confirmation hearing, you expressed "facination" with the concept of an "extension service-type arrangement with the university system of this country dealing with weather and oceanic issues."

Do you think the Sea Grant network is the kind of arrangement you had in mind, at least for oceanic issues?

Answer. The Sea Grant advisory network has been extremely effective in the transfer of university research results into practical use by the private sector. Extension programs of this type can and do play an important role in technology transfer. However, university-centered programs of this type are limited in their ability to provide direct access to weather and ocean data and information critical to the NOAA user community.

I view the advisory service portion of the Sea Grant program as an intergral part of the program, but believe we need to look beyond this particular program to deal effectively with broad-based delivery of weather and ocean information.

Question. What will you do to ensure that the Administration budget requests reflect the will of Congress that Sea Grant be properly funded?

Answer. I will work within the Administration to ensure that there is a full and proper review of the Sea Grant program based on the merits of the research activities which are proposed. I have initiated discussions with Sea Grant University representatives in an effort to close the gap in our understanding of the program and work toward a more reponsive and open program that will satisfy Administration concerns and Congressional intent.

Question. NOAA is currently developing an alternative plan for Ocean Service Centers which would allow increased private sector involvement.

What is the present status of the plan?

What contingency plans does NOAA have if the privatization concept is not accepted by Congress?

Answer. A Task Force, under the direction of NOAA Associate Administrator James Winchester, is investigating the possibility of a public/private sector partnership which would permit NOAA to deliver ocean services to the public without cost to the agency.

The Task Force is conducting four regional meetings with business during July and August to gauge the private sector's interest in this proposal. One meeting was held in Washington, D.C. on July 23 and 24. Meetings are scheduled for New Orleans (August 6 and 7); San Francisco (August 13 and 14); and, An Arbor (August 15 and 16). The Task Force report is due to be presented to Congress in early September.

If the Task Force report does not find enough support in the business community to ensure cost effective delivery of NOAA's ocean service products to the public, we plan to open the remaining 5 Ocean Service Centers with NOAA personnel.

Question. Commercial fishing interests assert that they are not adequately represented on several key Regional Fishery Management Councils.

What do you plan to do in response to this concern?

Answer. Every effort is made to ensure that appointments to the Fishery Management Councils are balanced and that all fishery interests within a Council area are considered. The competing interests between the commercial and recreational fisheries are more pronounced in some Councils and thus the perception of under-representation may occur from time-to-time. I think the attached chart demonstrates that current Council membership is balanced. In fact, with the 1985 appointments, commercial representation increased.

As Administrator, I will recommend to the Secretary that he appoint, from the lists provided to NOAA by the Governors of states represented on the Councils, knowledgeable and experienced Council members who reflect the interests of a Council's area of jurisdiction.

Question. In the 1976 amendments to the Sea Grant Act, an independent 15-member committee of experts known as the Sea Grant Review Panel was established. The laws calls for this body to play an intergral role in the opeation of the National Sea Grant Program. Because of NOAA's failure to appoint members, the panel has only 6 members remaining and their terms will expire shortly. At the April 4 Senate Appropriations hearing you stated that the problem would be rectified.

What progress has been made since that time?

Answer. On May 24, 1985, I forwarded to the Department of Commerce a list of candidates for the Sea Grant Review Panel. This list is now being reviewed by the Department of Commerce and the White House. As soon as a decision is made to approve candidates for the Panel, I am confident that the Sea Grant Review Panel will be rechartered according to the provisions of the Federal Advisory Committee Act.

Question. The Coastal Zone Management Act of 1972 repeatedly expresses the national importance of effectively managing and protecting the coastal zone. The Act also establishes a Federal obligation to assist the states in both the development and implementation of the management plans.

Would CZMA, under your leadership, continue to work as a state-federal partnership?

How?

Answer. Our Federal coastal policies must reflect changes in our national, State and local needs. The proper role of the Federal government is to promote wise use of our coastal resources while protecting the national interest.

We have the wherewithal to accomplish much, but we must employ our technologies in a way that recognizes the fragile environment and balances it against ourlegitimate development needs. In the face of these demands, a working partnership involving the Federal Government, the States, coastal communities, and both public and private interest users will have to respond in a positive way to help meet the new realities.

Federal policies guiding where we are going in coastal and ocean managment are quite clear. They revolve around the concept that everyone should participate in order to maintain a meaningful level of coastal management. A particular focus of the Federal role will be to encourage the States and localities to establish priorities in their coastal zone efforts. And finally, NOAA will support a continuance of the CZM effort. The Agency will provide a great deal of expertise to this ongoing effort. NOAA will remain a vital partner in the management of coastal and ocean resources. But we want that partnership to permeate to the local level where actual coastal-related projects are to be implemented.

Question. In other government research agencies, atmospheric and oceanic R&D budgets have increased under this Administration. During the same period, NOAA's R&D budget has decreased.

If confirmed, do you expect this trend in NOAA R&D funding to continue?

Answer. The major components of the proposed decrease in the level of funding for research and development in the FY budget are associated with several of NOAA's grant programs like Saltonstall-Kennedy, other fishery grant programs and some NMFS research efforts. These reductions do not reflect a decreased commitment to science. Rather, they are part of the government-wide effort to limit Federal spending in programs which benefit local or regional interests.

As part of our planning for FY 1987 and beyond, I have been working with NOAA's program managers to identify high opportunity areas where we can augment NOAA's science programs to improve NOAA services and meet national needs in oceanic and atmospheric research. In addition, we have asked the National Academy of Science to review our R&D activities and to advise NOAA on establishing high priority needs. This review is scheduled to begin in early Fall 1985 and continue into early Winter.

It should be noted that, in the three areas NAS recommended that NOAA emphasize—Atmospheric Chemistry, Climate Variability and Changes, Mesoscale—the level of funding proposed in FY 86 ($40.9 M) is essentially the same as the FY 1985 level.

Question. The Administration's budget calls for reductions of roughly $8.1 million in anticipation of svaings through NOAA's activities under OMB Circular A-76. These savings would be achieved by contracting our services now performed inhouse.

How did NOAA arrive at this dollar level of savings due to A-76?

Do you believe this is an accurate projection of the savings achieved?

Answer. NOAA's estimate of A-76 savings is prepared by a standard formula developed by the Office of Federal Procurement Policy. The formula assumes that for any given A-76 study, there is a 50 percent chance that the function will remain inhouse and a 50 percent chance that it will be contracted out. Thus, for each A-76 study, the Full Time Equivalent (FTE) involved are divided by two. Then a percentage factor for FTE savings is applied to each half—20 percent for the in-house assumption and 95 percent for the contracting out assumption. The product of each calculation is then multipled by the dollar savings per FTE—$25,000 for the inhouse assumption and $6,000 for the contracting out assumption. The sum of these calculations provides the total A-76 savings which the formula then allows the agency two years to achieve these savings. Applying the Office of Federal Procurement Policy formula to NOAA's A-76 inventory for the studies to be completed in fiscal year 1985/1986 savings were estimated to be $7,767K. Additional savings from studies completed in FY 1984 were $378K for a total of $8,145K in fiscal year 1986.

The Office of Federal Procurement Policy formula has been frequently used by the Department of Defense in its budget formulation and has proven to be a reasonably accurate technique for projecting A-76 savings.

Question. What is the status of NOAA's effort to upgrade the technological capability of the National Weather Service, in particular the implementation of the next generation radar (NEXRAD) system?

Answer. NOAA has three programs, in the FY budget, that are the essential elements for upgrading the technological capability of the National Weather Service:

NEXRAD—the validation phase will be completed in July of 1986; depending on the recommendations of the Advisory Committee for NEXRAD System Requirements Evaluation, we will begin to procure radars in FY 1987. Implementation is planned for FY 1989-1993.

ASOS—NWS is conducting field tests of sensor configurations that will result in automated observing systems. These systems will provide automatic observations. Implementations planned for FY 1989-1992.

AWIPS—this system will replace the aging AFOS system and will provide a modern internal communications system for NWS and will provide field forecasters with the ability to receive satellite, radar, and other data and to use them interactively to produce better forecasts. Implementation is scheduled for fiscal year 1989-1994.

All of the Weather Service modernization elements are moving forward toward accomplishing the objective of a fully upgraded capability in the early 1990's.

Question. The Navy and NASA are proceeding with a major new project for satellite-based remote sensing of global ocean dynamics called "NROSS".

In what manner do you believe NOAA should participate in this project?

Have you taken steps to develop procedures for NOAA to provide declassified NROSS data to provide sector users?

Answer. NOAA is proposing a concept that will make all unclassified NROSS data available to the civil ocean community. Under the proposal, the availability of the data will be for near real-time (within 3 to 6 hours and retrospectively), taking advantage of the joint Navy/Air Force. NOAA shared processing system to minimize costs.

NOAA has put out a techincal report which describes our proposed activity in the NROSS program which I am submitting for the record.

QUESTIONS OF SENATOR INOUYE AND THE ANSWERS

Question 1. There has been some talk lately, both in Congress and at NOAA, of reducing the number of Regional Fisheries Councils by consolidating their jurisdictions. I have grave concerns regarding this proposal, especially regarding the effect on the Western Pacific of having its Council merged into the California Council. I do not feel an entity 3,000 miles from the fishery it is supposed to manage, and with only minimal representation and focus on that region could effectively serve its constituency. I was very pleased when NOAA withdrew its intention to consolidate the Councils this year, citing the many problems this would create. Does NOAA remain committed to maintaining a separate Western Regional Fisheries Management Council in Honolulu?

Answer. NOAA did have internal discussions about the the possibility of combining some Fishery Management Councils, but did not submit this proposal in its draft Magnuson Fishery Conservation and Management Act reauthorization which was forwarded to Congress earlier this year.

NOAA is undertaking two studies to assess our current fishery management practices. One of the issues the studies will address is how the Fishery Management Councils are functioning and whether the current Council structure is the most efficient and effective means of managing fishery resources. After these studies are completed, we intend to involve Congress and the public in our review of these studies and hope this interaction will assist us in making recommendations to improve the management of our nation's fisheries.

I will await the completion of these studies before making any decisions regarding the structure of the current Fishery Management Councils. You can be assured that whatever our final recommendations regarding the Fishery Management Councils, we will give every consideration to the unique needs of the Western Pacific fisheries.

Question 2. As you know, this Committee reported out in May a fisheries reauthorization bill that includes the Central, Western, and South Pacific Fisheries Development Act; an Act that is of great importance to Pacific Island fisheries. Just last Thursday, the House Merchant Marine and Fisheries Committee included a version of this Act as an amendmemt to the Compact of Free Association. This version of the Act, however, authorizes the Secretary of Commerce to develop a long term plan for fisheries development of all Island fisheries in the Central, Western, and South Pacific, not just the U.S. flag territories and Hawaii as in the Senate bill. This legislation was drawn up at the request of the State Department to aid them in their tuna treaty negotiations with the South Pacific Island nations; a carrot with which to extract favorable arrangements for the U.S. tuna industry.

While I am certainly behind the State Department's efforts to secure a favorable tuna treaty, I must express my concerns over the intended use of the House version of the Act. This Act has always been intended as a tool to promote and develop U.S. Pacific Island fisheries, which are far behind other U.S. fisheries in basic development. To use this Act to fund foreign fishery development without including our own deserving fisheries, as I feel the State Dept. has in mind, would be contrary to the purpose of the Act and would set a poor precedent for this nation's fisheries.

As NOAA Administrator, could you foresee recommending to the Commerce Dept. a fisheries development plan for the Pacific that did not include our own island fisheries?

Answer. I would not recommend a fisheries development plan for the Pacific that did not include U.S. island fisheries. In fact, I believe NOAA's role should be to promote and develop U.S. Pacific fisheries. While it is in the United States' interest to conclude regional fisheries agreements which will permit access under one license for U.S. tuna vessels to a vast area of the Pacific Ocean, I think any fishery development funding for non-U.S. islands negotiated as part of these agreements should come from the State Department rather than NOAA.

NOAA has responsibility for fisheries development for U.S. fisheries and it is my opinion that funds for foreign fishery development is more appropriately funded through the Department of State.

Question 3. The Administration continues to try to reduce or contract out Weather Service jobs in Hawaii, jeopardizing consistent and reliable weather forecasting. This, as you know, is very troubling to the State, as our livelihood is dependent on these weather services. What are your views on the efforts to contract out and reduce weather services in the Pacific?

Answer. Our efforts are not aimed at reducing services but in providing them at less cost.

The options we are looking at include the contracting out of support activities where economic. The contracting out process (A-76) has safeguards to ensure that the quality and level of government services are maintained.

There have also been other efforts to selectively reduce operating costs in the Pacific Region, all of which have been carefully evaluated to ensure that they will not adversely impact the level of weather forecasts in the area:

A 3 position savings has been achieved in the Regional Headquarters staff; and,

One shift at the Honolulu WSFO has been reduced by one forecaster:

WSFO Honolulu will still have three round the clock shifts, with 3 forecasters on 2 shifts and 2 forecasters on one shift.

During times of tropical storms or other potential severe weather conditions, NWS will assure, through use of overtime, that 3 forecasters are on duty for each shift, as was done during the recent threat from hurricane Ignacio.

If confirmed as Administrator, I will assure that proper forecast staffing is maintained at all NWS forecast offices.

QUESTIONS OF SENATOR MATHIAS AND THE ANSWERS

Question 1. It has been brought to my attention that NOAA will relocate its Georgetown offices to another part of the District of Columbia. Is this correct and, if so, when will the move take place?

Answer. NOAA currently occupies much of the two Page Buildings in upper Georgetown. The owners of the Page Buildings have indicated that they do not intend to renew the current leases of NOAA space with the General Services Administration (GSA), and have agreed upon a common lease expiration date of April 1986.

The headquarters of the National Marine Fisheries Services (NMFS), plus elements of the National Environmental Satellite, Data and Information Service (NESDIS), and the National Ocean Service (NOS), along with attached administration offices, are housed in the Page Buildings. These offices have business with many near-by Federal agencies, local industry representatives and, perhaps more than most NOAA offices, with thousands of official visitors annually from out-of-town.

In an attempt to balance efficient management of NOAA employees in the Page units with minimal disruption to internal operations, commuting patterns and constituent access, NOAA has asked GSA to relocate the Page Building occupants together in another leased facility in or near the downtown area.

Negotiations for new space have not been completed.

Question 2. Did a joint NOAA-General Services Administration study show that Rockville, Maryland, would be the optimum location for the Georgetown employees?

Answer. There was a joint space needs survey conducted several years ago, but it made no recommendations regarding the Georgetown facilities nor any other specific recommendations regarding location of any NOAA offices. We do not have any recent NOAA studies that make such a recommendation.

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